

## CHAPTER 482

### PEST CONTROL

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**482.011 Short title.**--This chapter may be cited as the "Structural Pest Control Act."

**History.**--s. 1, ch. 59-454; s. 1, ch. 65-295; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 14, 15, ch. 82-229; ss. 25, 59, ch. 92-203.

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

(1) "Agricultural area" means an area:

- (a) Upon which a ground crop, trees, or plants are grown for commercial purposes;
- (b) Where a golf course, park, nursery, or cemetery is located; or
- (c) Where farming of any type is performed or livestock is raised.

(2) "Business location" means an advertised permanent location in or from which pest control business is solicited, accepted, or conducted.

(3) "Category" means a distinct branch or phase of pest control for which a pest control operator's certificate may be issued such as: fumigation, general household pest control, termites and other wood-destroying organisms pest control, lawn and ornamental pest control, and such a combination or division of such branches of pest control as the department may by rule establish.

(4) "Certified operator" means an individual holding a current pest control operator's certificate issued by the department.

(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

- (c) Whose principal duty is the personal supervision of the licensee's operation in a category or categories of pest control in which the operator is certified.
- (6) "Department" means the Department of Agriculture and Consumer Services.
- (7) "Employee" means a person who is employed by a licensee that provides that person necessary training, supervision, pesticides, equipment, and insurance and who receives compensation from and is under the supervision and control of the licensee from which compensation of the licensee regularly deducts and matches federal insurance contributions and federal income and Social Security taxes.
- (8) "Fumigant" means a chemical which, at a required temperature and pressure, can exist in the gaseous state in sufficient concentration to be lethal to a given organism. This definition implies that a fumigant acts as a gas in the strictest sense of the word. This definition excludes aerosols that are particulate suspensions of liquids or solids dispersed in air.
- (9) "Fumigation" means the use, within an enclosed space or in or under a structure or tarpaulins, of a fumigant in concentrations that may be hazardous to human beings.
- (10) "General household pest control" means pest control with respect to any structure, not including fumigation or pest control with respect to termites and other wood-destroying organisms.
- (11) "Identification cardholder" means an owner or employee to whom a current card has been issued by the department identifying the holder to the public or to any law enforcement officer or any agent of the department charged with, or entitled to exercise any function in connection with, the enforcement of this chapter and any rules made pursuant to this chapter.
- (12) "Independent contractor" means an entity separate from the licensee that:
- (a) Receives moneys from a customer which are deposited in a bank account other than that of the licensee;
  - (b) Owns or supplies its own service vehicle, equipment, and pesticides; or
  - (c) Pays its own worker's compensation as an independent contractor.
- (13) "Infestation" means the presence of living pests in, on, or under a structure, lawn, or ornamental.
- (14) "Integrated pest management" means the selection, integration, and implementation of multiple pest control techniques based on predictable economic, ecological, and sociological consequences, making maximum use of naturally occurring pest controls, such as weather, disease agents, and parasitoids, using various biological, physical, chemical, and habitat modification methods of control, and using artificial controls only as required to keep particular pests from surpassing intolerable population levels predetermined from an accurate assessment of the pest damage potential and the ecological, sociological, and economic cost of other control measures.
- (15) "Lawn" means the turf formed from grass or other plants.
- (16) "Lawn and ornamental pest control" means pest control with respect to pests of any lawn or ornamental.
- (17) "Licensee" means a person, partnership, firm, corporation, or other business entity having a license issued by the department for engaging in the business of pest control at a particular business location.
- (18) "New construction" means the erection of a new building or the construction of an addition to an existing building, which encloses a space and requires a building permit under applicable building codes.
- (19) "Ornamental" means any shrub, bush, tree or other plant used or intended for use:
- (a) In connection with the occupation or use of any structure; or
  - (b) By human beings for purposes other than in an agricultural area.
- (20) "Pest" means an arthropod, wood-destroying organism, rodent, or other obnoxious or undesirable living plant or animal organism.
- (21) "Pest control" includes:
- (a) 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;

- (b) The identification of or inspection for infestations or infections in, on, or under a structure, lawn, or ornamental;
- (c) 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;
- (d) All phases of fumigation, including:
  - 1. The treatment of products by vault fumigation; and
  - 2. The fumigation of boxcars, trucks, ships, airplanes, docks, warehouses, and common carriers; and
- (e) The advertisement of, the solicitation of, or the acceptance of remuneration for any work described in this subsection, 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.

(22) "Pesticide or economic poison" means any substance or mixture of substances intended for:

- (a) Preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses or fungi on or in living human beings or other animals; or
- (b) Use as a plant regulator, defoliant, or desiccant.

(23) "Rodent" means a rat, mouse, squirrel, or flying squirrel or other animal of the order Rodentia, including a bat, which may become a pest in, on, or under a structure.

(24) "Rodent control" means application of remedial measures for the purpose of controlling rodents.

(25) "Special identification cardholder" means a person to whom an identification card has been issued by the department showing that the holder is authorized to perform fumigation.

(26) "Structure" means:

- (a) Any type of edifice or building, together with the land thereunder, the contents thereof, and any patio or terrace thereof;
- (b) That portion of land upon which work has commenced for the erection of an edifice or building; or
- (c) A railway car, motor vehicle, trailer, barge, boat, ship, aircraft, wharf, dock, warehouse, or common carrier.

(27) "Termites and other wood-destroying organisms pest control" means pest control with respect to any termite or other wood-destroying organisms, including fungi, by the use of any chemical or mechanical methods, including moisture control for the prevention or control of fungus in existing structures, but not including fumigation or general household pest control.

(28) "Wood-destroying organism" means arthropod or plant life which damages and can reinfest seasoned wood in a structure, namely termites, powder-post beetles, oldhouse borers, and wood-decaying fungi.

**History.**--s. 1, ch. 59-454; s. 1, ch. 65-295; ss. 19, 35, ch. 69-106; s. 176, ch. 71-377; s. 3, ch. 76-168; s. 180, ch. 77-104; s. 370, ch. 77-147; s. 1, ch. 77-457; s. 1, ch. 78-292; ss. 2, 3, ch. 81-318; ss. 1, 14, 15, ch. 82-229; s. 1, ch. 89-180; ss. 26, 59, ch. 92-203; s. 427, ch. 97-103; s. 1, ch. 2001-280.

#### **482.032 Enforcement.--**

- (1) The department is empowered to enforce this chapter.
- (2) It is the duty of every state attorney, sheriff, police officer, and other appropriate county or municipal officer to enforce, or to assist any duly authorized inspector or other agent of the department in the enforcement of, this chapter and the rules adopted by the department under the provisions of this chapter.
- (3) The department may commence and maintain all proper and necessary actions and proceedings:
  - (a) To enforce its rules.

(b) To make application for injunction to the proper circuit court, and the judge of that court has jurisdiction, upon hearing and for cause shown, to grant a temporary injunction or a permanent injunction, or both, restraining a person from violating or continuing to violate any of the provisions of this chapter or of the rules adopted under this chapter or from failing or refusing to comply with the requirements of this chapter or of the rules adopted under this chapter.

(4) The department, or its agent, is authorized to enter upon any public or private premises or carrier during regular business hours in the performance of its duties relating to pesticides and records pertaining to same.

**History.**--s. 1, ch. 65-295; ss. 19, 35, ch. 69-106; s. 26, ch. 73-334; s. 3, ch. 76-168; s. 371, ch. 77-147; s. 1, ch. 77-457; s. 2, ch. 78-292; ss. 2, 3, ch. 81-318; ss. 14, 15, ch. 82-229; s. 3, ch. 89-180; ss. 27, 59, ch. 92-203.

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

(1) That all pesticides or economic poisons be used only in accordance with the registered labels and labeling or as directed by the United States Environmental Protection Agency or the department.

(2) That vehicles and trailers used in pest control be permanently marked with the licensee's name that is registered with the department.

(3) That written contracts be required for providing termites and other wood-destroying organisms pest control, that provisions necessary to assure consumer protection as specified by the department be included in such contracts, and that require licensees to comply with the contracts issued.

(4) That a licensee, before performing general fumigation, notify in writing the department inspector having jurisdiction over the location where the fumigation is to be performed, which notice must be received by the department inspector at least 24 hours in advance of the fumigation and must contain such information as the department requires. However, in an authentic and verifiable emergency, when 24 hours' advance notification is not possible, advance telephone or telegraph notice may be given; but such notice must be immediately followed by written confirmation providing the required information.

(5) That any pesticide used for preconstruction treatments for the prevention of subterranean termites be applied in the amount, concentration, and treatment area in accordance with the label; that a copy of the label of the registered pesticide being applied be carried in a vehicle at the site where the pesticide is being applied; and that the licensee maintain for 3 years the record of each preconstruction treatment, indicating the date of treatment, the location or address of the property treated, the total square footage of the structure treated, the type of pesticide applied, the concentration of each substance in the mixture applied, and the total amount of pesticide applied.

(6) That the department may issue an immediate stop-use or stop-work order for fumigation performed in violation of fumigant label requirements or department rules, or in a manner that presents an immediate serious danger to the health, safety, or welfare of the public, including, but not limited to, failure to use required personal protective equipment, failure to use a required warning agent, failure to post required warning signs, failure to secure a structure's usual entrances as required, or using a fumigant in a manner that will likely result in hazardous exposure to humans, animals, or the environment.

**History.**--s. 1, ch. 59-454; s. 1, ch. 65-295; ss. 14, 19, 35, ch. 69-106; s. 3, ch. 76-168; s. 372, ch. 77-147; s. 1, ch. 77-161; s. 1, ch. 77-457; s. 19, ch. 78-95; ss. 2, 3, ch. 81-318; ss. 2, 14, 15, ch. 82-229; s. 1, ch. 86-78; s. 2, ch. 89-180; ss. 28, 59, ch. 92-203; s. 1, ch. 94-194; s. 154, ch. 98-200; s. 11, ch. 2000-308; s. 2, ch. 2001-280.

**482.061 Inspectors.**--The department shall appoint, as inspectors, a sufficient number of individuals whom the department has determined are qualified to perform the inspection or investigative work necessary. The inspectors shall make inspections of licensees, conduct investigations as appropriate, and report all violations to the department. The department shall waive the fees for examination for certification and for issuance or renewal of the certificates during the time that those individuals serve as inspectors for the department.

**History.**--s. 1, ch. 59-454; s. 1, ch. 65-295; ss. 19, 35, ch. 69-106; s. 3, ch. 76-168; s. 373, ch. 77-147; s. 1, ch. 77-457; s. 3, ch. 78-292; ss. 2, 3, ch. 81-318; ss. 14, 15, ch. 82-229; s. 4, ch. 89-180; ss. 29, 59, ch. 92-203; s. 2, ch. 94-194.

**482.071 Licenses.**--

(1) The department may issue licenses to qualified businesses to engage in the business of pest control in this state. It is unlawful for any person to operate a pest control business that is not licensed by the department.

(2)(a) Before entering business or upon transfer of business ownership, and also annually thereafter, on or before an anniversary date set by the department for each licensed business location, each person, partnership, firm, corporation, or other business entity engaged

in pest control must apply to the department for a license, or a renewal thereof, for each of its business locations. Applications must be made on forms prescribed and furnished by the department.

(b) The department shall establish a fee for the issuance of a license, which fee may not be more than \$300 or less than \$75, and a fee for the renewal of a license, which fee may not be more than \$300 or less than \$75; however, until rules setting these fees are adopted by the department, the issuance fee and renewal fee shall each be \$75. After a grace period not exceeding 30 calendar days following the anniversary renewal date, the department shall assess a late renewal charge of \$50, which must be paid in addition to the renewal fee. The aggregate of the fees assessed pursuant to this paragraph may not exceed 105 percent of the direct costs for administering this chapter.

(c) Unless timely renewed, a license automatically expires 60 calendar days after the anniversary renewal date. Subsequent to such expiration, a license may be reinstated only upon reapplication and payment of the issuance fee and the late renewal fee.

(d) A license automatically expires when a licensee changes its business location address or its business name as registered with the department. The department shall issue a new license for the remainder of the term upon payment of a fee of \$25.

(e) The department may not issue or renew a license to engage in the pest control business unless the applicant's pest control activities are under a certified operator or operators in charge who are certified in the categories of the licensee.

(f) The department by rule may establish a procedure for expediting the processing of an application for license upon payment by the applicant of a special fee in an amount sufficient to cover the cost of such expedited process, but not exceeding \$50.

(g) The department may deny the issuance of a pest control business license to any applicant, or refuse to renew the license of any licensee, if the department finds that the applicant or licensee or any of its directors, officers, owners, or general partners are or were directors, officers, owners, or general partners of a pest control business which has gone out of business or sold the business to another party within 5 years immediately preceding the date of application or renewal and failed to reimburse the prorated value of its customers' remaining contract periods or failed to provide for another licensed pest control operator to assume its existing contract responsibility.

(3) A licensee shall display its current license at each of its business locations. Each business location of a licensee must be licensed.

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

(a) Bodily injury: \$100,000 each person and \$300,000 each occurrence; and property damage: \$50,000 each occurrence and \$100,000 in the aggregate; or

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

(5) A license under this section is a prerequisite for the issuance of a local occupational license to engage in pest control, as provided in s. 205.1967.

**History.**--s. 1, ch. 59-454; s. 1, ch. 65-295; ss. 19, 35, ch. 69-106; s. 1, ch. 74-74; s. 3, ch. 76-168; s. 374, ch. 77-147; s. 1, ch. 77-457; s. 4, ch. 78-292; ss. 2, 3, ch. 81-318; ss. 3, 14, 15, ch. 82-229; s. 5, ch. 89-180; ss. 30, 59, ch. 92-203; s. 3, ch. 94-194.

#### **482.0815 Permit to perform preventive termite treatment services for new construction only.--**

(1) A licensee must have a permit to perform preventive termite treatments for new construction, except for preventive termite treatments on additions to existing structures for which the licensee has a current termite treatment contract.

(2) A permit shall be automatically renewed upon renewal of the license held by the licensee, unless the permit has been suspended, revoked, or otherwise denied.

(3) A permit shall be probationary for 120 days after a licensee is found to be in violation of s. 482.051(5) or a rule relating to the application of specific amounts, concentrations, and treatment areas, except for provisions governing recordkeeping. A licensee whose permit is on probationary status must provide advance notice to the department of any preventive treatment planned for new construction.

(4) A licensee's permit shall be suspended for a 30-day to 90-day period if:

(a) The licensee whose permit is on probationary status violates s. 482.051(5) or a rule relating to the application of specific amounts, concentrations, or treatment areas, except for provisions governing recordkeeping, at three or more sites on three or more separate dates;

(b) The licensee violates s. 482.051(3) or a rule with respect to three contracts within 2 years and the violation is failure to comply with contractual obligations to re-treat a wood-destroying-organism infestation or to repair damage caused by wood-destroying organisms when required by the contract. If a licensee makes a good faith offer to repair damage covered by a valid contract, the licensee must be considered to be in compliance with the contractual obligation;

(c) The licensee violates subsection (9); or

(d) The licensee violates the recordkeeping requirements of s. 482.051(5) three or more times within 2 years.

(5) A suspended permit may be reinstated after the period of the suspension if the licensee's license is in good standing.

(6) The permit of a licensee whose permit has been suspended within the previous 3 years shall be revoked if the licensee subsequently meets any of the conditions of subsection (4).

(7) The department may not issue a permit or renew the permit to perform preventive termite treatments if the applicant or licensee or any of its directors, officers, owners, or general partners are or were directors, officers, owners, or general partners of a pest control business that went out of business or sold the business within 5 years immediately preceding the date of application or renewal and failed to reimburse the prorated renewal fee of any customer's remaining wood-destroying-organism contract periods or failed to provide for another licensed pest control operator to assume its existing wood-destroying-organism contract responsibility.

(8) A licensee must conspicuously display its current permit at all business locations, each of which must have a separate permit.

(9) A licensee holding a permit must maintain accurate records of all pesticides purchased, obtained, or available for its use; the total amount of the area treated using soil applied termiticides; and the total number of sites treated using this and any other method of treatment. These records must be made available to the department upon request. The amount of pesticides purchased, obtained, or otherwise available must at least equal the amount required by the pesticide label to treat the area or number of sites treated.

(10) The department shall suspend the license of any licensee who performs preventive termite treatments for new construction while its permit is suspended or revoked.

(11) The department shall adopt rules necessary to administer this section.

**History.**--s. 3, ch. 2001-280.

**482.091 Employee identification cards.--**

(1)(a) Each employee who performs pest control for a licensee must have an identification card.

(b) Either the licensee or the licensee's certified operator in charge must apply to the department for an identification card for each employee who will perform pest control therefor within 30 days after employment of that employee, on a form prescribed by the department. The licensee and the licensee's certified operator in charge are jointly responsible for obtaining such identification cards.

(2)(a) An identification cardholder must be an employee of the licensee and work under the direction and supervision of the licensee's certified operator in charge and may not be an independent contractor. An identification cardholder may perform only pest control services out of, or for customers arising from, the licensee's licensed business location. An identification cardholder may not perform any pest control independently of and without the knowledge of the licensee and the licensee's certified operator in charge and may perform pest control only for the licensee's customers.

(b) The identification card shall be carried on the employee's person while performing or soliciting pest control and shall be presented on demand to the person for whom pest control is being performed or solicited, to any inspector of the department, or to any of such other persons as are designated by the rules of the department.

(c) An employee may not perform pest control without carrying on her or his person a current identification card affixed with the employee's signature and current photograph.

(d) An identification cardholder may use only the licensee's pesticides, equipment, and other materials when performing pest control.

(e) An identification cardholder shall consult regularly with the licensee's certified operator in charge concerning:

1. The selection of proper and correct chemicals for the particular pest control work to be performed;

2. The safe and proper use of the particular pesticides applied; and

3. The correct concentrations and formulations of pesticides used for the various types of pest control work performed.

(3) A licensee or certified operator may not assign or use an employee to perform any category of pest control without providing trained supervision unless the employee is trained and qualified in that category of pest control. An employee may not perform, solicit, inspect, or apply pest control without first having been provided at least 5 days of field training in the appropriate category of pest control under the direct supervision, direction, and control of a certified operator.

(4) An identification card automatically expires when the holder thereof ceases to be an employee of the licensee for which the card was secured. In such case, either the licensee or certified operator in charge shall obtain and destroy the expired card. An identification card expires on the licensee's next anniversary date after issuance or upon transfer of business ownership, change of business name registered with the department, or change of licensee's business location address. Each identification card must be renewed annually thereafter on or before the licensee's anniversary date as set by the department for each licensed business location.

(5) The fee for each identification card is \$10.

(6) An employee whose duties are confined to office secretarial, bookkeeping, office clerical, office filing, trenching, digging, raking, putting up or taking down tents, clamping, or carrying away debris or such other activities as specified by the department shall be exempted by the department from being required to hold an identification card.

(7) A person may not be issued, or may not hold, an identification card for more than one licensee at any one time, except a certified operator for the express and sole purpose of, and period for, obtaining experience to qualify for examination in a category for which such person is not certified and seeks certification.

(8) A licensee having more than one licensed business location may temporarily assign an identification cardholder, other than a certified operator in charge, to any of its licensed business locations without obtaining another identification card for such holder.

(9) For every employee who performs inspections for wood-destroying organisms pursuant to s. 482.226, the licensee or certified operator in charge must apply for an identification card that identifies that employee as having received the special training specified in this subsection in order to perform inspections pursuant to s. 482.226. The application for such identification card must be accompanied by an affidavit, signed by the prospective identification cardholder and by the licensee or certified operator in charge, which states that the prospective identification cardholder has received training in the detection and control of wood-destroying organisms, including but not limited to training in:

(a) The biology, behavior, and identification of wood-destroying organisms with particular emphasis on ones common in this state and the damage caused by such organisms;

(b) The inspection forms to be used to report the finding; and

(c) Applicable federal, state, and local laws or ordinances.

Such identification cards must be applied for, and shall be issued and used, in accordance with this section. This subsection does not apply to a certified operator who is certified in the category of pest control with respect to termites and other wood-destroying organisms. A person may not perform such inspections except under the supervision of a certified operator in charge who is certified in the category of termites and other wood-destroying organisms pest control.

(10) In addition to the training required by subsection (3), each identification cardholder must receive 4 hours of classroom training in pesticide safety, integrated pest management, and applicable federal and state laws and rules within 6 months after issuance of the card or must have received such training within 2 years before issuance of the card. Each cardholder must receive at least 2 hours of continuing training in pesticide safety, integrated pest management, and applicable federal and state laws and rules by the renewal date of the card. Certified operators who maintain their certificates in good standing are exempt from this subsection. The department shall adopt rules regarding verification of such training.

**History**.--s. 1, ch. 59-454; s. 1, ch. 65-295; s. 5, ch. 67-520; ss. 19, 35, ch. 69-106; s. 2, ch. 74-74; s. 3, ch. 76-168; s. 376, ch. 77-147; s. 1, ch. 77-457; s. 5, ch. 78-292; ss. 2, 3, ch. 81-318; ss. 4, 14, 15, ch. 82-229; s. 6, ch. 89-180; ss. 33, 59, ch. 92-203; s. 428, ch. 97-103; s. 4, ch. 2001-280.

#### **482.111 Pest control operator's certificate.--**

(1) The department shall issue a pest control operator's certificate to each individual who qualifies under this chapter. Before engaging in pest control work, each certified operator must be certified as provided in this section. Application must be made and the issuance fee must be paid to the department for the original certificate within 60 days after the postmark date of written notification of passing the examination. During a period of 30 calendar days following expiration of the 60-day period, an original certificate may be issued; however, a late issuance charge of \$50 shall be assessed and must be paid in addition to the issuance fee. An original certificate may not be issued after expiration of the 30-day period, without reexamination.

(2)(a) The department shall issue pest control operator's certificates in several categories, including fumigation, general household pest control, lawn and ornamental pest control, and termites and other wood-destroying organisms pest control.

(b) The specific scope of work (or job scope) for individuals in each category established under paragraph (a) must be pursuant to the definitions set forth in this chapter. Individuals certified in a particular category, or individuals operating pursuant to the authority of a certified individual, may not perform operations outside that category's job scope if such operations are within the job scope of another category, unless the individual is certified in that category or unless otherwise provided in this chapter.

(3) Annually, on or before an anniversary date set by the department, an individual so issued a pest control operator's certificate must apply to the department on a form prescribed by the department for renewal of such certificate. After a grace period not exceeding 30 calendar days following such renewal date, a late renewal charge of \$50 shall be assessed and must be paid in addition to the renewal fee.

(4) Unless timely renewed, a certificate automatically expires 180 calendar days after the anniversary renewal date. Subsequent to such expiration, a certificate may be issued only upon successful reexamination and upon payment of the examination and issuance fees due.

(5) Each certified operator in charge at a licensed business location shall display her or his certificate and current renewal receipt at the business location in her or his charge.

(6)(a) Each location of each licensed pest control business must have a certified operator in charge who is certified for the particular category of pest control engaged in at that location. A certified operator in charge must be registered with the department pursuant to rules adopted pursuant to this section. A certified operator in charge may be in charge of one or more of all categories if she or he is certified for those categories.

(b) A person may not be in charge of the performance of pest control activities of any category of a licensee unless she or he is certified for that category.

(c) A certified operator may not be in charge of the performance of pest control activities at more than one business location for a licensee; however, the department shall prescribe by rule that, during the temporary absence of the certified operator currently registered in charge of a licensed business location, the licensee may, for a period not exceeding 30 days, designate another certified operator, certified in the same categories as the certified operator in charge, to be in charge of and responsible for performing those duties requiring the physical presence of a certified operator in charge. In any such case, the certified operator designated temporarily in charge and the licensee are jointly responsible for the pest control work performed and for compliance with other provisions of this chapter and of the rules adopted pursuant to this chapter.

(7) The fee for issuance of an original certificate or the renewal thereof shall be set by the department but may not be more than \$150 or less than \$75; however, until rules setting these fees are adopted by the department, the issuance fee and the renewal fee shall each be \$75.

(8) A pest control operator's certificate is not transferable to another person.

(9) In the event of the loss of a certified operator in charge or other emergency, one or more emergency pest control certificates may be issued by the department, upon the request of the licensee, to one or more designated identification cardholders for a period of 30 days. The department may issue additional emergency certificates to one or more designated identification cardholders for periods not exceeding 30 days, for up to a maximum of 1 year. The sum of the periods for which emergency certificates are issued to the same licensee may not exceed 1 year during any 3-year period except in the event of the death of a certified operator in charge, in which case, additional emergency certificates may be issued for an extension of up to 120 days. The department shall collect \$50 for each emergency certificate issued. Upon request by the department, the licensee shall submit interim reports at 30-day intervals containing documented evidence indicating specific actions being taken by the licensee to fill the vacancy created by the loss of a certified operator in charge. The department shall adopt rules and prescribe forms for this purpose; however, an emergency certificate may not be issued in the category of fumigation.

(10) Prior to the expiration date of a certificate, the certificateholder must complete 2 hours of approved continuing education on legislation, safety, pesticide labeling, and integrated pest management and 2 hours of approved continuing education in each category of her or his certificate or must pass an examination given by the department. The department may not renew a certificate if the continuing education or examination requirement is not met.

(a) Courses or programs, to be considered for credit, must include one or more of the following topics:

1. The law and rules of this state pertaining to pest control.
2. Precautions necessary to safeguard life, health, and property in the conducting of pest control and the application of pesticides.
3. Pests, their habits, recognition of the damage they cause, and identification of them by accepted common name.
4. Current accepted industry practices in the conducting of fumigation, termites and other wood-destroying organisms pest control, lawn and ornamental pest control, and household pest control.

5. How to read labels, a review of current state and federal laws on labeling, and a review of changes in or additions to labels used in pest control.

6. Integrated pest management.

(b) The certificateholder must submit with her or his application for renewal a statement certifying that she or he has completed the required number of hours of continuing education. The statement must be on a form prescribed by the department and must identify at least the date, location, provider, and subject of the training and must provide such other information as required by the department.

(c) The department shall charge the same fee for examination as provided in s. 482.141(2).

(11) When a certified operator becomes a member of the Armed Forces of the United States on active duty, the renewal fee and continuing education requirements are waived while the individual remains on active duty as a member of the armed forces. If the individual is designated as the certified operator in charge and no other certified operator is available to be placed in charge, an emergency certificate may be granted without a time or fee requirement until the certified operator is no longer on active duty.

**History.**--s. 1, ch. 59-454; s. 21, ch. 61-514; s. 1, ch. 65-295; ss. 14, 35, ch. 69-106; s. 3, ch. 76-168; s. 377, ch. 77-147; s. 1, ch. 77-457; s. 6, ch. 78-292; ss. 2, 3, ch. 81-318; ss. 5, 14, 15, ch. 82-229; s. 7, ch. 89-180; s. 5, ch. 91-145; ss. 34, 59, ch. 92-203; s. 429, ch. 97-103.

#### **482.121 Misuse of certificate.--**

(1) A certified operator may not allow her or his certificate to be used by a licensee to secure or keep a license unless:

(a) She or he is in charge of the pest control activities of the licensee in the category or categories covered by her or his certificate;

(b) She or he is a full-time employee of the licensee; and

(c) Her or his primary occupation is with the licensee.

(2) A licensee may not use the certificate of any certified operator to secure or keep a license unless the holder of the certificate is in charge of the pest control activities in the category or categories of the licensee covered by the certificate.

(3) If a certificate is used in violation of this section, the department may revoke the license of the pest control business or the certified operator's certificate, or both such license and certificate.

**History.**--s. 1, ch. 59-454; s. 1, ch. 65-295; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 7, ch. 78-292; ss. 2, 3, ch. 81-318; ss. 14, 15, ch. 82-229; s. 8, ch. 89-180; ss. 35, 59, ch. 92-203; s. 430, ch. 97-103.

#### **482.132 Qualifications for examination and certification.--**

(1) The department may award a pest control operator's certificate to an individual who has passed the examinations prescribed by the department and who submits to the department proof that she or he is not under the disability of minority and is qualified to be a certified operator with regard to the safety of persons and property, and is otherwise qualified under the provisions of this chapter and the rules made pursuant to this chapter.

(2) Each applicant for examination for a pest control operator's certificate must possess the minimum qualifications specified in one of the following paragraphs:

(a) Three years' employment as a service employee of a licensee that performs pest control in the category or categories in which the applicant seeks certification, 1 year of which employment must have been completed in this state during the year immediately preceding application for examination.

(b) A degree with advanced training or a major in entomology, botany, agronomy, or horticulture from a recognized college or university, which training or major included the completion of at least 20 semester hours or 30 quarter hours of college credits in those subjects, plus 1 year's employment as a service employee of a licensee that performs pest control in the category or categories in which the applicant seeks certification or the successful completion of a 1-year entomology program at a public university in this state which specializes in urban pest management and includes practical pest management experience. If such advanced training or major is in entomology, the applicant is qualified for examination in all categories; but if such advanced training or major is in botany, agronomy, or horticulture, the applicant is qualified for examination only in the category of lawn and ornamental pest control.

(c) A 2-year degree in horticultural technology or the equivalent from a college or university, with advanced training of 20 or more semester hours or 30 or more quarter hours of credit in horticulture, plus 1 year's employment as a service employee of a licensee that performs pest control only in the category of lawn and ornamental pest control. Such an applicant is qualified for examination only in the category of lawn and ornamental pest control.

(d) A 2-year degree in general pest control technology or the equivalent from a college or university, with advanced training of 20 or more semester hours or 30 or more quarter hours of credit in entomology, plus 1 year of employment as a service employee of a licensee that performs pest control in any category or categories. Such an applicant is qualified for all examinations.

(e) Twenty-four semester hours or 36 quarter hours of courses in entomology, pest control technology, and related subjects, plus 1 year of employment as a service employee of a licensee that performs pest control in the category of general household pest, termite, and fumigation. Such an applicant is qualified only for examination in the categories of general household pest control, termite and other wood-destroying organisms pest control, and fumigation.

(f) Twenty-four semester hours or 36 quarter hours of courses in entomology, pest control technology, agronomy, botany, horticulture, and related subjects, plus 1 year of employment as a service employee of a licensee that performs pest control in the category of lawn and ornamental pest control. Such an applicant is qualified only for examination in the category of lawn and ornamental pest control.

(g) Three years' full-time employment as a service employee of the United States Department of Defense, who has been certified to perform pest control in the category or categories in which the applicant seeks certification, 1 year of which employment must have been completed in this state during the year immediately preceding application for examination. Additionally, the application for certification must be submitted to the Department of Agriculture and Consumer Services within 12 months after the date of termination of employment from the Department of Defense.

(3) In addition, each applicant must have knowledge of practical and scientific facts of pest control and be a graduate of an accredited high school or submit to the department satisfactory evidence of equivalent education.

**History.**--s. 1, ch. 59-454; s. 1, ch. 63-48; ss. 1, 2, ch. 65-295; ss. 19, 35, ch. 69-106; s. 3, ch. 76-168; s. 1, ch. 77-116; ss. 378, 379, ch. 77-147; s. 1, ch. 77-457; s. 8, ch. 78-292; ss. 2, 3, ch. 81-318; ss. 6, 14, 15, ch. 82-229; s. 2, ch. 85-335; s. 9, ch. 89-180; ss. 36, 59, ch. 92-203; s. 4, ch. 94-194; s. 431, ch. 97-103; s. 12, ch. 2000-308; s. 5, ch. 2001-280.

**Note.**--Subsections (2) and (3) former s. 482.133.

#### **482.141 Examinations.--**

(1) Each individual seeking certification must satisfactorily pass an examination which must be written but which may include practical demonstration. The department shall hold at least two examinations each year. An applicant may seek certification in one or more categories.

(2) An application for examination must be made in accordance with the rules of the department. Each application must be accompanied by a fee set by the department, in an amount of not more than \$300 or less than \$150, for each category in which the applicant desires to be examined; however, until rules setting these fees are adopted by the department, the examination fee for each category shall be \$150. Any applicant who fails to pass one or more categories may reapply for examination upon the payment of the applicable fee for each category in which the applicant seeks reexamination.

(3) The department shall give an examination in each category for which application is made which tests the applicant's knowledge of pest control as applicable to that category. The certificate issued must state the categories allowed thereby.

(4) A refund of examination fees may not be made unless the applicant presents written evidence that she or he was under military orders, on jury duty or otherwise subpoenaed, or under medical care which precluded reporting to take the examination, in which case the department shall exercise its discretion as to a refund.

**History.**--s. 1, ch. 59-454; s. 1, ch. 65-295; ss. 19, 35, ch. 69-106; s. 3, ch. 76-168; s. 380, ch. 77-147; s. 1, ch. 77-457; s. 9, ch. 78-292; ss. 2, 3, ch. 81-318; ss. 7, 14, 15, ch. 82-229; s. 10, ch. 89-180; ss. 37, 59, ch. 92-203; s. 432, ch. 97-103.

#### **482.151 Special identification card for performance of fumigation.--**

(1) Any individual who performs fumigation must be a special identification cardholder, unless such individual is a certified operator who is certified in the category of fumigation. When performing fumigation, a special identification cardholder or certified operator may act only under the direction and supervision of the certified operator in charge.

(2) The department shall prescribe by rule the qualifications, privileges, duties, and limitations of holders of special identification cards.

(3) The department may issue special identification cards to qualified individuals who pass written examinations that may include practical demonstration. The application forms shall be prescribed by the department.

(4) The department, in its rules, shall provide for such matters as required qualifications for applicants for examination, written or practical phases or categories of examinations, and time of examinations. The fee for an examination shall be set by the department but may not be more than \$200 or less than \$100 for each category; however, until rules setting these fees are adopted by the department, the fee for each category shall be \$100.

(5) An application must be made and the issuance fee paid to the department for an original special identification card within 60 days after the postmark date of written notification of passing the examination. The fee for issuance of an original special identification card shall be set by the department but may not be more than \$100 or less than \$50; however, until a rule setting this fee is adopted by the department, the fee shall be \$50. During a period of 30 days following expiration of the 60-day period, an original special identification card may be issued; however, the department shall assess a late issuance charge of \$25, which must be paid in addition to the issuance fee. An original special identification card may not be issued after expiration of the 30-day period, without reexamination.

(6) An application to the department for renewal of a special identification card must be made on or before an anniversary date set by the department. The fee for renewal of a special identification card shall be set by the department but may not be more than \$100 or less than \$50; however, until a rule setting this fee is adopted by the department, the renewal fee shall be \$50. After a grace period not exceeding 30 calendar days following such renewal date, the department shall assess a late renewal charge of \$25, which must be paid in addition to the renewal fee.

(7) Unless timely renewed, a special identification card automatically expires 180 calendar days after the anniversary renewal date. Subsequent to such expiration, a special identification card may be issued only upon successful reexamination and upon payment of examination and issuance fees due, as provided in this section.

(8) Prior to the expiration date of a special identification card, the cardholder must:

(a) Complete 2 hours of approved continuing education on legislation, safety, and pesticide labeling and 2 hours of approved continuing education in the fumigation category; or

(b) Pass an examination in fumigation given by the department.

(9) If a special identification cardholder becomes a member of the Armed Forces of the United States on active duty, the renewal fee and continuing education requirements are waived while the individual remains on active duty as a member of the Armed Forces.

**History**--s. 1, ch. 59-454; s. 1, ch. 65-295; ss. 19, 35, ch. 69-106; s. 3, ch. 76-168; s. 381, ch. 77-147; s. 1, ch. 77-457; s. 10, ch. 78-292; ss. 2, 3, ch. 81-318; ss. 8, 14, 15, ch. 82-229; s. 11, ch. 89-180; s. 6, ch. 91-145; ss. 38, 59, ch. 92-203.

**482.152 Duties of certified operator in charge of pest control activities of licensee.**--A certified operator in charge of the pest control activities of a licensee shall have her or his primary occupation with the licensee and shall be a full-time employee of the licensee, and her or his principal duty shall include the responsibility for the personal supervision of and participation in the pest control activities at the business location of the licensee as the same relate to:

(1) The selection of proper and correct chemicals for the particular pest control work performed.

(2) The safe and proper use of the pesticides used.

(3) The correct concentration and formulation of pesticides used in all pest control work performed.

(4) The training of personnel in the proper and acceptable methods of pest control.

(5) The control measures and procedures used.

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

**History**--s. 2, ch. 65-295; ss. 19, 35, ch. 69-106; s. 3, ch. 76-168; s. 382, ch. 77-147; s. 1, ch. 77-457; s. 11, ch. 78-292; ss. 2, 3, ch. 81-318; ss. 9, 14, 15, ch. 82-229; s. 12, ch. 89-180; ss. 39, 59, ch. 92-203; s. 433, ch. 97-103.

**482.155 Limited certification for governmental pesticide applicators or private applicators.**--

(1)(a) The department shall establish limited certification categories for:

1. Persons who apply pesticides only as governmental employees.

2. Persons who apply pesticides only to their own private property, and employees who apply pesticides to private property owned by their employers. This includes properties such as public buildings, schools, hospitals, nursing homes, grocery stores, restaurants, apartments, and common areas of condominiums and any other private properties where the public may be exposed to pesticide applications.

(b) A person seeking limited certification under this subsection must pass an examination given or approved by the department. Each application for examination must be accompanied by an examination fee set by the department, in an amount of not more than \$150 or

less than \$50; and a recertification fee of \$25 every 4 years. Until rules setting these fees are adopted by the department, the examination fee is \$50. Application for recertification must be accompanied by proof of having completed 4 classroom hours of acceptable continuing education. The department shall provide the appropriate reference material and make the examination readily accessible and available to all applicants at least quarterly or as necessary in each county.

(c) Certification obtained under this subsection does not authorize operation of a pest control business.

(2) In lieu of obtaining limited certification under subsection (1), a governmental employee or private property applicator may apply pesticides if she or he is trained and supervised by a certified operator who is certified by the department in the categories of pest control that are performed by the employee or applicator and who is employed full time by the governmental agency or private property owner for which the pest control is performed.

(3) A person who applies pesticides under this section shall maintain, for a period of at least 2 years, routine operational records containing information pertaining to each application of a restricted-use pesticide including the name of the applicator and the type, amount, use, date, and place of application.

(4) This section does not apply to the application of disinfectants, sanitizers, or ready-to-use pesticides sold over the counter at retail.

**History**--s. 40, ch. 92-203; s. 5, ch. 94-194; s. 434, ch. 97-103.

#### **482.156 Limited certification for commercial landscape maintenance personnel.--**

(1) The department shall establish a limited certification category for commercial landscape maintenance personnel to authorize them to apply herbicides for controlling weeds in plant beds and to perform integrated pest management on ornamental plants using the following materials: insecticides having the signal word "caution" but not having the word "warning" or "danger" on the label, insecticidal soaps, horticultural oils, and bacillus thuringiensis formulations. The application equipment that may be used by a person certified pursuant to this section is limited to portable, handheld 3-gallon compressed air sprayers or backpack sprayers having no more than a 5-gallon capacity and does not include power equipment.

(2)(a) A person seeking limited certification under this section must pass an examination given by the department. Each application for examination must be accompanied by an examination fee set by the department, in an amount of not more than \$150 or less than \$50; however, until a rule setting this fee is adopted by the department, the examination fee is \$50. Each person making application for certification under this section must furnish proof of having a certificate of insurance which states that the employer meets the requirements for minimum financial responsibility for bodily injury and property damage required by s. 482.071(4). To be eligible to take the examination, an applicant must have completed 8 classroom hours of plant bed and ornamental continuing education training approved by the department and provide sufficient proof, according to criteria established by department rule, that the applicant has been in the landscape maintenance business for at least 3 years.

(b) The department shall provide the appropriate reference materials for the examination and make the examination readily accessible and available to applicants at least quarterly or as necessary in each county.

(3) An application for recertification under this section must be made annually and be accompanied by a recertification fee set by the department, in an amount of not more than \$75 or less than \$25; however, until a rule setting this fee is adopted by the department, the fee for recertification is \$25. The application must also be accompanied by proof of having completed 4 classroom hours of acceptable continuing education and the same proof of having a certificate of insurance as is required for initial certification.

(4) Certification under this section does not authorize:

(a) Application of pesticides to turf;

(b) Operation of a pest control business; or

(c) The application of pesticides by unlicensed or uncertified personnel under the supervision of the certified person.

(5) A person certified under this section shall maintain records documenting the pests and areas treated, plus the methods and materials applied for control of such pests, which records must be available for review by the department upon request.

**History**--s. 41, ch. 92-203; s. 6, ch. 94-194.

#### **482.161 Disciplinary grounds and actions; reinstatement.--**

(1) The department may issue a written warning to or impose a fine against, or deny the application for licensure or licensure renewal of, a licensee, certified operator, limited certificateholder, identification cardholder, or special identification cardholder or any other person, or may suspend, revoke, or deny the issuance or renewal of any license, certificate, limited certificate, identification card, or special identification card that is within the scope of this chapter, in accordance with chapter 120, upon any of the following grounds:

- (a) Violation of any provision of this chapter or of any rule of the department adopted pursuant to this chapter.
  - (b) Conviction in any court within this state of a violation of any provision of this chapter.
  - (c) Habitual intemperance or addiction to narcotics.
  - (d) Conviction in any court in any state or in any federal court of a felony, unless civil rights have been restored.
  - (e) Knowingly making false or fraudulent claims with respect to pest control; knowingly misrepresenting the effects of materials or methods used in pest control; or knowingly failing to use materials or methods suitable for the pest control undertaken.
  - (f) Performing pest control in a negligent manner.
  - (g) Failure to give to the department, or authorized representative thereof, true information upon request regarding methods and materials used, work performed, or other information essential to the administration of this chapter.
  - (h) Fraudulent or misleading advertising relative to pest control or advertising in an unauthorized category of pest control.
  - (i) Failure to pay an administrative fine imposed pursuant to subsection (7).
- (2) A revocation or suspension of a license, certificate, or limited certificate is effective for all categories unless the department, in its sole discretion, suspends or revokes fewer than all categories thereof.
- (3) Three years after a revocation, application may be made to the department for reinstatement; and the department may authorize reinstatement.
- (4) Any charge of a violation of this chapter or of the rules adopted pursuant to this chapter by a licensee affects only the license or permit of the business location from which the violation is alleged to have occurred. Another license or permit may not be issued to the same licensee, or to any person who has an ownership interest in the suspended or revoked business license of the licensee and who knew or should have known of the violation that resulted in the suspension or revocation, for a new business location in the same county or any contiguous county for a period of 3 years after the effective date of the suspension or revocation.
- (5) If, after appropriate hearing in accordance with chapter 120, the department finds that a licensee, certified operator, limited certificateholder, identification cardholder, or special identification cardholder has committed any act described in subsection (1), but further finds that such act is of such nature or occurred under such circumstances that suspension or revocation of the license, certificate, limited certificate, identification card, or special identification card would either be detrimental to the public or be unnecessarily harsh under the circumstances, it may, in lieu of executing the order of suspension or revocation, either:
- (a) Reprimand the party publicly or privately; or
  - (b) Place the party on probation for a period of not more than 2 years.
- (6)(a) If the department finds that the terms of any such probation have been violated, it may revoke the probation order immediately; and its initial order takes effect.
- (b) If a person is found by the department to have violated any of the other terms of this chapter or of the rules adopted pursuant to this chapter, the department may declare such probation revoked; and, in its proceeding with regard to such additional violation, the department may consider the violation for which probation is in effect in determining the extent of its order with regard to such additional violation.
- (7) The department, pursuant to chapter 120, in addition to or in lieu of any other remedy provided by state or local law, may impose an administrative fine, in an amount not exceeding \$5,000, for the violation of any of the provisions of this chapter or of the rules adopted pursuant to this chapter. In determining the amount of fine to be levied for a violation, the following factors shall be considered:
- (a) The severity of the violation, including the probability that the death, or serious harm to the health or safety, of any person will result or has resulted; the severity of the actual or potential harm; and the extent to which the provisions of this chapter or of the rules adopted pursuant to this chapter were violated;
  - (b) Any actions taken by the licensee or certified operator in charge, or limited certificateholder, to correct the violation or to remedy complaints;
  - (c) Any previous violations of this chapter or of the rules adopted pursuant to this chapter; and
  - (d) The cost to the department of investigating the violation.

(8) An administrative law judge may, in lieu of or in addition to imposition of a fine, recommend probation or public or private reprimand. A public reprimand must be made in a newspaper of general circulation in the county of the licensee.

(9) The department shall publish quarterly a list of disciplinary actions taken pursuant to this section and shall provide such list to each licensee.

(10) The department may require any licensee disciplined for a violation of s. 482.226 to submit to the department reports for wood-destroying organism inspections and treatments performed. These reports must be submitted at such times as required by the department but not more frequently than once a week.

**History.**--s. 1, ch. 59-454; s. 1, ch. 65-295; ss. 19, 35, ch. 69-106; s. 3, ch. 76-168; s. 383, ch. 77-147; s. 1, ch. 77-457; s. 12, ch. 78-292; ss. 2, 3, ch. 81-318; ss. 10, 14, 15, ch. 82-229; s. 13, ch. 89-180; ss. 42, 59, ch. 92-203; s. 7, ch. 94-194; s. 225, ch. 96-410; s. 6, ch. 2001-280.

**482.163 Responsibility for pest control activities of employee.**--Proper performance of pest control activities by a pest control business employee is the responsibility not only of the employee but also of the certified operator in charge, and the certified operator in charge may be disciplined pursuant to the provisions of s. 482.161 for the pest control activities of an employee. A licensee may not automatically be considered responsible for violations made by an employee. However, the licensee may not knowingly encourage, aid, or abet violations of this chapter.

**History.**--s. 43, ch. 92-203; s. 8, ch. 94-194.

#### **482.165 Unlicensed practice of pest control; cease and desist order; injunction; civil suit and penalty.--**

(1) It is unlawful for a person, partnership, firm, corporation, or other business entity not licensed by the department to practice pest control.

(2) If the department has probable cause to believe that a person, partnership, firm, corporation, or other business entity not licensed by the department to practice pest control has violated any provision of this chapter, the department shall issue and deliver to that person, partnership, firm, corporation, or other business entity a notice to cease and desist from such violation. For the purpose of enforcing a cease and desist order, the department may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person, partnership, firm, corporation, or other business entity that violates any provision of the order.

(3) In addition to or in lieu of any remedy provided under subsection (2), the department may institute a civil suit in circuit court to recover a civil penalty for any violation for which the department may issue a notice to cease and desist under subsection (2). The civil penalty may not be less than \$500 or more than \$5,000 for each offense. The court may also award to the prevailing party court costs and reasonable attorney's fees.

(4) The violation or disregard of a cease and desist order issued for the purpose of terminating unlicensed pest control activities is a ground for denial of a license or certificate when applied for.

**History.**--ss. 14, 18, ch. 89-180; ss. 44, 59, ch. 92-203.

**482.1821 Closing pest control business without providing for contracts and liabilities.**--A licensee may not close its pest control business and open up a new pest control business under a different name without providing for meeting or satisfying its outstanding pest control contracts and liabilities. However, the department may waive this requirement if the licensee has filed for bankruptcy and reached agreement with its creditors on the terms for disposing of existing debts and obligations.

**History.**--s. 46, ch. 92-203; s. 40, ch. 95-144.

#### **482.183 Limitations.--**

(1) A person may not be charged with a violation of this chapter or any rule adopted pursuant to this chapter more than 3 years after the date of the violation.

(2) For the purpose of this section, a charge of violation is considered to have been made upon the issuance of a notice or citation by the department charging such violation.

**History.**--s. 2, ch. 65-295; ss. 19, 35, ch. 69-106; s. 3, ch. 76-168; s. 387, ch. 77-147; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 14, 15, ch. 82-229; ss. 47, 59, ch. 92-203.

#### **482.191 Violation and penalty.--**

(1) It is unlawful to solicit, practice, perform, or advertise in pest control except as provided by this chapter.

(2) A person who violates any provision of this chapter is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) Any person who violates any rule of the department relative to pest control is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

**History.**--s. 1, ch. 59-454; s. 1, ch. 65-295; ss. 19, 35, ch. 69-106; s. 434, ch. 71-136; s. 3, ch. 76-168; s. 388, ch. 77-147; s. 1, ch. 77-457; s. 15, ch. 78-292; ss. 2, 3, ch. 81-318; ss. 14, 15, ch. 82-229; s. 113, ch. 91-224; ss. 48, 59, ch. 92-203.

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

(1) Pest control, except for fumigation, performed by a person upon her or his own individual residential property.

(2) Pest control performed on a United States Department of Defense installation or other federal property, except as outlined in the memorandum of agreement between the Department of Agriculture and Consumer Services and the United States Department of Defense.

(3) Pest control performed in greenhouses, in plant nurseries, or on agricultural crops, trees, groves, or orchards.

(4) Aerial application of pesticides.

(5) Aquatic weed control.

(6) Other weed control not specifically regulated by this chapter.

(7) Area mosquito control.

(8) Pest control performed for lawns and ornamental plants which is performed on an agricultural area.

(9) The use of wood preservatives during the manufacturing process when applied only on wood, pretreated lumber, or metal shields for use in the construction of structures.

(10) The use of the antibiotic oxytetracycline hydrochloride or other antibiotic for the control of lethal yellowing.

(11) A yard worker when applying a pesticide to the lawn or ornamental plants of an individual residential property owner using pesticides owned and supplied by the individual residential property owner, provided the yard worker does not advertise for or solicit pest control business and does not hold herself or himself out to the public as being engaged in pest control. The yard worker may not supply her or his own pesticide application equipment, use pesticide-applying power equipment, or use any equipment other than a handheld container when applying the pesticide.

**History.**--s. 1, ch. 59-454; s. 1, ch. 65-295; s. 5, ch. 75-178; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 16, ch. 78-292; ss. 2, 3, ch. 81-318; ss. 11, 14, 15, ch. 82-229; s. 97, ch. 83-218; s. 15, ch. 89-180; ss. 50, 59, ch. 92-203; s. 435, ch. 97-103.

**482.226 Wood-destroying organism inspection report; notice of inspection or treatment; financial responsibility.**--

(1) When an inspection for wood-destroying organisms is made by a licensee for purposes of a real estate transaction and either a fee is charged for the inspection or a written report is requested by the customer, a wood-destroying organism inspection report shall be provided by the licensee or its representative qualified under this chapter to perform such inspections. The inspection shall be made in accordance with good industry practice and standards as established by rule and must include inspection for all wood-destroying organisms. The inspection findings shall be reported to the person requesting the inspection. The report must be made on a form prescribed by the department and furnished by the licensee. A copy of the inspection report shall be retained by the licensee for a period of not less than 3 years.

(2)(a) The inspection report must include the following information and statements:

1. The licensee's name.

2. The date of the inspection.

3. The address of the structure inspected.

4. Any visible accessible areas not inspected and the reasons for not inspecting them.

5. The areas of the structure that were inaccessible.
6. Any visible evidence of previous treatments for, or infestations of, wood-destroying organisms.
7. The identity of any wood-destroying organisms present and any visible damage caused.
8. A statement that a notice of the inspection has been affixed to the property in accordance with subsection (4) or subsection (5) and a statement of the location of the notice.

(b) If any pest control treatment is provided at the time of the inspection, the inspection report must also provide the name of each of the wood-destroying organisms for which treatment was provided, the name of the pesticide used, and all conditions and terms associated with that treatment.

(c) An inspection report does not constitute a guarantee of the absence of wood-destroying organisms or damage therefrom or other evidence unless the report specifically states therein the extent of such guarantee.

(d) The inspection report must also include a statement certifying that neither the inspector nor the licensee by whom the inspection is made has any financial interest in the property inspected or is associated in any way in the transaction with any party to the transaction other than for inspection purposes.

(3) If periodic reinspections or retreatments are specified in wood-destroying organisms preventive or control contracts, the licensee shall furnish the property owner or the property owner's authorized agent, after each such reinspection or retreatment, a signed report indicating the presence or absence of wood-destroying organisms covered by the contract, whether retreatment was made, and the common or brand name of the pesticide used. Such report need not be on a form prescribed by the department. A person may not perform periodic reinspections or retreatments unless she or he has an identification card issued under s. 482.091(9).

(4) When a wood-destroying organism inspection is provided in accordance with subsection (1), the licensee shall post notice of such inspection immediately adjacent to the access to the attic or crawl area or other readily accessible area of the property inspected. This notice must be at least 3 inches by 5 inches in size and must consist of a material that will last at least 3 years. It is a violation of this chapter for anyone other than the property owner to remove such notice at any time. The licensee's name and address and the date of inspection must be stated on the notice.

(5) In addition to the notice required by subsection (4), any licensee who performs control of any wood-destroying organism shall post notice of such treatment immediately adjacent to the access to the attic or crawl area or other readily accessible area of the property treated. This notice must be at least 3 inches by 5 inches in size and must consist of a material that will last at least 3 years. It is a violation of this chapter for anyone other than the property owner to remove such notice at any time. The licensee's name and address, the date of treatment, the name of the pesticide used, and the wood-destroying organism for which treatment was performed must be stated on the notice. The contract for treatment between the licensee and the consumer must state the location of such notice.

(6) Any licensee that performs wood-destroying organism inspections in accordance with subsection (1) must meet minimum financial responsibility in the form of errors and omissions (professional liability) insurance coverage or bond in an amount no less than \$50,000 in the aggregate and \$25,000 per occurrence, or demonstrate that the licensee has equity or net worth of no less than \$100,000 as determined by generally accepted accounting principles substantiated by a certified public accountant's review or certified audit. The licensee must show proof of meeting this requirement at the time of license application or renewal thereof.

**History**--s. 18, ch. 78-292; s. 2, ch. 81-318; ss. 12, 14, 15, ch. 82-229; s. 98, ch. 83-218; s. 1, ch. 85-335; s. 16, ch. 89-180; ss. 51, 59, ch. 92-203; s. 436, ch. 97-103.

#### **482.2265 Consumer information; notice of application of pesticide.--**

(1) Any person, partnership, firm, corporation, or other business entity that is licensed or certified under this chapter to engage in the business of pest control, or any other person who is a limited certificateholder under this chapter, shall, upon request, provide a customer of its pest control services with the following information:

- (a) The business name of the licensee or certificateholder or the name of the limited certificateholder.
- (b) The identification card number of the person applying the pesticide or, if a limited certificateholder, the name of that person.
- (c) The common or brand name of the pesticide to be used and the common name of the active ingredient in that pesticide.
- (d) Appropriate safety information pertaining to the pesticide product to be used, as provided on the label for that product.

(2) Any person who is licensed or certified under this chapter, including any person who is a limited certificateholder, shall post a notice in a conspicuous location at the time of application of a pesticide to a lawn or to exterior foliage. The department shall provide for the wording and physical makeup of such notice by rule, but the notice must:

- (a) Be at least 4 inches by 5 inches in size;
- (b) Be constructed of rigid, durable weatherproof material;
- (c) Have a background and lettering of contrasting colors; and
- (d) Clearly set forth the business name of the licensee or name of the limited certificateholder making the pesticide application.

The notice may be made part of a larger sign containing additional information, but the department may not require a sign larger than 4 inches by 5 inches unless the licensee or limited certificateholder seeks to include additional information on the sign.

**History.**--ss. 17, 18, ch. 89-180; ss. 1, 2, ch. 89-198; ss. 52, 59, ch. 92-203; s. 1, ch. 95-317.

**482.2267 Registry of persons requiring prior notification of the application of pesticides.--**

(1) The department shall maintain a current registry of persons requiring prior notification of the application of pesticides. Upon request, the department shall register any person who pays an initial registration fee of \$50 and submits to the department a certificate signed by a physician licensed pursuant to chapter 458, stating:

- (a) That the physician has examined the person and determined that the placement of the person on the registry for prior notification of the application of a pesticide or class of pesticides is necessary to protect that person's health;
- (b) Whether the physician is board certified by the American Board of Medical Specialties in allergy, toxicology, or occupational medicine;
- (c) The distance surrounding the person's primary residence for which the person requires prior notification of the application of a pesticide or class of pesticides in order to protect the person's health;
- (d) The pesticide or class of pesticides for which the physician has determined that prior notification to the person is necessary to protect the person's health; and
- (e) The license number of the physician.

(2) The distance specified pursuant to paragraph (1)(c) shall be limited to those properties adjacent and contiguous to the person's primary residence unless the physician is board certified in one of the specialties specified in paragraph (1)(b). In no event shall the distance exceed a  $\frac{1}{2}$ -mile radius of the boundaries of the person's primary residence and shall not exceed the minimum distance, as determined by the physician, required to protect the person's health.

(3) A person desiring to have his or her name continue to appear on the registry from year to year must submit an annual renewal fee of \$10, and an annual update of the physician's certificate.

(4) The department shall notify all licensees and limited certificateholders quarterly of the following:

- (a) The names and addresses of those persons who are currently registered;
- (b) The pesticide or class of pesticides designated by the physician pursuant to paragraph (1)(d); and
- (c) The distance notification designated by the physician pursuant to paragraph (1)(c).

(5) Before making a pesticide application to a lawn, plant bed, or exterior foliage within the area designated by the physician surrounding the property on which the primary residence of a registered person is located, a licensee or limited certificateholder must notify that person at least 24 hours before applying the pesticide. Notification may be made by telephone, by mail, in person, or by hand delivery. Notification shall include the location to which the pesticide is to be applied and must also include information on the type of pesticide to be used, except in an instance of pesticide application of a small amount on an infestation or disease that is discovered onsite at the time of treatment. It is the responsibility of a registrant under this section to notify the department of the addresses of the properties or residences that fall within the applicable contiguous, adjacent, or special-distance parameters for notification. The department shall supply this information to licensees and certificateholders.

(6) This section does not create any duties, liabilities, or obligations of licensees or certificateholders to registrants other than those expressly stated in this section.

(7) The application for registration and the physician's certificate required by this section must be in substantially the following form:

APPLICATION FOR PRIOR NOTIFICATION OF PESTICIDE APPLICATIONS

PART A (To be completed by applicant)

- 1. Applicant's Name: \_\_\_\_\_
- 2. Date of Birth: \_\_\_\_\_
- 3. Applicant's Residence Address (not Post Office Box):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- 4. Applicant's phone number: \_\_\_\_\_
- 5. I am applying to the Department to be placed upon the registry requiring prior notification of pesticide applications pursuant to Section 482.2267, Florida Statutes.

\_\_\_\_\_  
 Applicant's Signature          Date

PART B (To be completed by the physician)

I, the undersigned physician, certify to the following:

- 1. I have examined the person making application above and have determined that his or her placement on the registry for prior notification of the application of the pesticide(s) or class of pesticides set forth below is necessary to protect that person's health.
- 2. I  am,  am not, board certified and recognized by the American Board of Medical Specialties in one or more of the following medical specialties:
  - Allergy
  - Toxicology
  - Occupational medicine
- 3. My license number is: \_\_\_\_\_.
- 4. The distance surrounding the person's primary residence for which the person requires prior notification of the application of the pesticide(s) or class of pesticides set forth below in order to protect the person's health is:

\_\_\_\_\_  
 (Note: The distance specified shall be limited to those properties adjacent and contiguous to the person's primary residence unless the physician is board certified in one of the specialties specified in paragraph 2 above. In any event, the distance may not exceed a 1/2-mile radius of the boundaries of the property where the patient resides and must not exceed the minimum distance required to protect the applicant's health).

- 5. The pesticide(s) or class of pesticides for which I have determined that prior notification to the person of the application within the area indicated above is necessary to protect the person's health is (are):

\_\_\_\_\_

\_\_\_\_\_  
 Signature of Certifying Physician          Date

\_\_\_\_\_  
(Print name of Certifying Physician)

(8) This act shall not be construed to create any additional requirements related to inclusion or continuance on the registry for those persons on the registry or who have applied to be on the registry as of July 1, 1995.

(9) False information knowingly provided shall be a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and information in such form or certificate that the licensed physician knows, or should have known to be false, is grounds for disciplinary action pursuant to s. 458.331.

**History.**--s. 52, ch. 92-203; s. 1, ch. 95-317; s. 20, ch. 97-98; s. 437, ch. 97-103.

**Note.**--Former s. 482.2265(3).

**<sup>1</sup>482.227 Guarantees and warranties.--**

(1) The Legislature finds that the terms "guarantee" and "warranty" are common in contracts for the treatment of wood-destroying organisms and intends to clarify that the purpose of this section is to assure that the consumer understands whether a contract contains a "guarantee" or "warranty" for repair and retreatment or for retreatment only or contains no guarantee. Unless the contract for treatment of wood-destroying organisms indicates conspicuously on the front page whether the guarantee or warranty is for repair and retreatment or for retreatment only or that no guaranty or warranty is offered, the term "guarantee" or "warranty" may be used in a contract for treatment of wood-destroying organisms only in the following circumstances:

(a) If the licensee promises to repair any property damaged by wood-destroying organisms during a specified period after the treatment, the term "full" or "unlimited" must be used together with the term "guarantee" or "warranty" wherever that term occurs other than in a disclaimer under subsection (2).

(b) If the licensee promises only to provide additional treatment if infestation occurs during a specified period after treatment, the term "limited" must be used with the term "guarantee" or "warranty" wherever that term occurs other than in a disclaimer under subsection (2).

(c) If the licensee does not promise to repair the property or provide additional treatment, the term "guarantee" or "warranty" may not be used except in a disclaimer under subsection (2).

(2) A disclaimer indicating that no guarantee or warranty is offered under the contract must appear in conspicuous type on the face of the contract.

**History.**--ss. 13, 15, ch. 82-229; ss. 53, 59, ch. 92-203; ss. 20, 21, ch. 2002-295.

<sup>1</sup>**Note.**--Section 21, ch. 2002-295, amended s. 482.227, effective October 1, 2003, to read:

482.227 Guarantees and warranties; contracts executed after October 1, 2003.--

(1) The Legislature finds that the terms "guarantee" and "warranty" are common in contracts for the treatment of wood-destroying organisms. The purpose of this section is to assure that contract language describing a "guarantee" or "warranty" is clear and easily identifiable for the protection of consumers and licensees. Therefore the following provisions shall apply to each new contract for the treatment of wood-destroying organisms issued by the licensee and signed by the customer after October 1, 2003.

(2) Any contract for treatment of wood-destroying organisms must specify on the first page in bold print that it is offered for repair and retreatment or for retreatment only or that no warranty or guarantee is offered.

(3) The contract for treatment of wood-destroying organisms must specify on the first page in bold print whether there are any disclaimers, limitations, conditions, or exclusions on the licensee's obligation to repair or re-treat the property. Contract sections describing disclaimers, limitations, conditions, or exclusions applicable to the licensee's obligation to repair or re-treat the property must contain headings in bold print.

(4) If a contract for treatment of wood-destroying organisms contains a disclaimer, limitation, condition, or exclusion applicable to the licensee's obligation to repair or re-treat the property, the term "full" or "unlimited" may not be used together with the term "guarantee" or "warranty."

**482.231 Use of fogging machines.**--Only a certified operator who is certified in the category of general household pest control, or an authorized employee of a licensee under the supervision of such an operator, may use a thermal-aerosol fogging machine in general household pest control.

**History.**--s. 1, ch. 59-454; s. 1, ch. 65-295; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 19, ch. 78-292; ss. 2, 3, ch. 81-318; ss. 14, 15, ch. 82-229; ss. 54, 59, ch. 92-203.

**482.2401 Disposition and use of revenues from fees and fines.**--

(1) All moneys collected or received by the department under this chapter shall be deposited in the Pest Control Trust Fund and, except as provided in subsection (3), shall be used by the department in carrying out the provisions of this chapter and in the education of the pest control industry.

(2) All expenditures authorized by this chapter shall be paid upon presentation of vouchers approved by the department.

(3) All revenues from administrative fines shall be used to support contract research or education in pest control. The department shall appoint a committee composed of pest control industry members which shall assist the department in establishing research or education priorities, in developing requests for proposals for bids, and in selecting research or education contractors from qualified bidders.

**History.**--s. 55, ch. 92-203; s. 23, ch. 2002-295.

**482.241 Liberal interpretation.**--The provisions of this chapter shall be liberally construed in order to effectively carry them out in the interest of the public and its health, welfare, and safety.

**History.**--s. 1, ch. 59-454; s. 1, ch. 65-295; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 20, ch. 78-292; ss. 2, 3, ch. 81-318; ss. 14, 15, ch. 82-229; ss. 56, 59, ch. 92-203.

#### **482.242 Preemption.--**

(1) This chapter is intended as comprehensive and exclusive regulation of pest control in this state. The provisions of this chapter preempt to the state all regulation of the activities and operations of pest control services, including the pesticides used pursuant to labeling and registration approved under chapter 487. No local government or political subdivision of the state may enact or enforce an ordinance that regulates pest control, except that the preemption in this section does not prohibit a local government or political subdivision from enacting an ordinance regarding any of the following:

(a) Local occupational licenses adopted pursuant to chapter 205.

(b) Land development regulations adopted pursuant to chapter 163 which include regulation of any aspect of development, including a subdivision, building construction, sign regulation or any other regulation concerning the development of land, or landscaping or tree protection ordinances which do not include pesticide application restrictions.

(c) Regulations that:

1. Require, for multicomplex dwellings in excess of 10 units, annual termite inspections for termite activity or damage, including Formosan termites, which must be performed by a person licensed under this chapter.

2. Require pest control treatments of structures that have termite activity or damage which must be performed by a person licensed under this chapter.

3. Require property owners or other persons to obtain inspections or pest control treatments performed by a person licensed under this chapter.

An ordinance by a local government or political subdivision which requires an annual inspection or pest control treatment must conform to current law.

(d) Protection of wellhead protection areas and high recharge areas.

(e) Hazardous materials reporting as set forth in part II of chapter 252, storage, and containment including as relating to stormwater management.

(f) Hazardous material unlawful discharge and disposal.

(g) Hazardous materials remediation.

(2) For the purposes of this section:

(a) "Hazardous materials" shall be as defined in s. 403.74 and chapter 252.

(b) "Wellhead protection area" means an area designated by local government to protect the groundwater source for a well intended for human consumption for a community water system and includes the surface and subsurface area surrounding such a potable water wellfield. The maximum boundaries of the wellfield shall be the zone of contribution and the minimum shall be 10 years' travel time. Differing levels of protection may be established within the protection area zones based upon an evaluation of the risk to human health and the environment. Wellhead protection areas shall be delineated using such methods as reasonable or calculated fixed radii, simplified variable shapes, analytical methods, hydrogeological mapping, numerical flow or transport models, or other professionally accepted methodologies.

(c) "High recharge area" means an area contributing a significant volume of water which adds to the storage of an aquifer through vertical flow. The term "significant" will vary geographically depending on the hydrologic characteristics of that aquifer. High recharge areas will receive higher protection than other areas due to their significance as current or future water use areas.

(d) "Zone of contribution" means the area surrounding a well pumping water for human consumption that encompasses all areas or features that supply groundwater recharge to the well as determined by the relevant water management district or the local government.

**History**--s. 2, ch. 65-295; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 21, ch. 78-292; ss. 2, 3, ch. 81-318; ss. 14, 15, ch. 82-229; ss. 57, 59, ch. 92-203; s. 7, ch. 2001-280.

#### **482.243 Pest Control Enforcement Advisory Council.--**

(1) The Pest Control Enforcement Advisory Council is created within the department. The Commissioner of Agriculture shall appoint all members of the council. The purpose of the council is to advise the Commissioner of Agriculture regarding the regulation of pest control practices and to advise government agencies with respect to those activities related to their responsibilities regarding pest control. The

council shall serve as the statewide forum for the coordination of pest control related activities to eliminate duplication of effort and maximize protection of the public.

(2) The council shall consist of 11 members as follows: a representative of the department; a citizen not involved in the conduct of pest control; a state university urban entomologist; and eight persons each holding a pest control operator's certificate issued under s. 482.111, of whom two shall be actively involved in termite control, two shall be actively involved in general household pest control, two shall be actively involved in structural fumigation, and two shall be actively involved in lawn and landscape pest control. Each member shall be appointed for a term of 4 years and shall serve until a successor is appointed.

(3) In conducting its meetings, the council shall use Robert's Rules of Order. A majority of the members of the council constitutes a quorum for all purposes, and an act by a majority of such quorum at any meeting constitutes an official act of the council. The secretary shall keep a complete record of each meeting which must show the names of members present and the actions taken. These records must be kept on file with the department, and these records and other documents about matters within the jurisdiction of the council are subject to inspection by members of the council.

(4) The members of the council shall meet and organize by electing a chair, a vice chair, and a secretary whose terms shall be for 1 year each. Council officers may not serve consecutive terms.

(5) The council shall meet at the call of its chair, at the request of a majority of its members, at the request of the department, or at such time as a public health or environmental emergency arises.

(6) The meetings, powers and duties, procedures, recordkeeping, and reimbursement of expenses of members of the council shall be in accordance with the provisions of s. 570.0705 relating to advisory committees established within the department.

(7) The council shall receive reports of pest control enforcement activity conducted by the Division of Agricultural Environmental Services, which shall include numbers of cases, numbers of administrative actions, numbers of complaints received and investigated, and dispositions of complaints; provide advice to the department on the conduct of pest control enforcement activities; receive reports on disciplinary actions, provided that the names of individual licensees shall be expunged from cases discussed before the council, unless a consent order or final order has been issued in the case; and make recommendations, subject to a majority vote, directly to the Commissioner of Agriculture for actions to be taken with respect to the regulation of pest control services and practices that the council has reviewed.

**History.**--s. 24, ch. 2002-295.