

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1269

Chapter 212, Laws of 2003

58th Legislature
2003 Regular Session

PEST INSPECTORS

EFFECTIVE DATE: 7/1/03

Passed by the House March 10, 2003
Yeas 94 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 10, 2003
Yeas 44 Nays 1

BRAD OWEN

President of the Senate

Approved May 9, 2003.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1269** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER

Chief Clerk

FILED

May 9, 2003 - 4:28 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1269

Passed Legislature - 2003 Regular Session

State of Washington

58th Legislature

2003 Regular Session

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Linville and Schoesler; by request of Department of Agriculture)

READ FIRST TIME 02/18/03.

1 AN ACT Relating to regulating structural pest inspectors; amending
2 RCW 15.58.030, 15.58.040, 15.58.150, 15.58.210, 15.58.233, 15.58.460,
3 15.58.465, and 15.58.470; adding new sections to chapter 15.58 RCW;
4 providing an effective date; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 15.58.030 and 2000 c 96 s 1 are each amended to read
7 as follows:

8 As used in this chapter the words and phrases defined in this
9 section shall have the meanings indicated unless the context clearly
10 requires otherwise.

11 (1) "Active ingredient" means any ingredient which will prevent,
12 destroy, repel, control, or mitigate pests, or which will act as a
13 plant regulator, defoliant, desiccant, or spray adjuvant.

14 (2) "Antidote" means the most practical immediate treatment in case
15 of poisoning and includes first aid treatment.

16 (3) "Arthropod" means any invertebrate animal that belongs to the
17 phylum arthropoda, which in addition to insects, includes allied
18 classes whose members are wingless and usually have more than six legs;
19 for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

1 (4) "Complete wood destroying organism inspection" means inspection
2 for the purpose of determining evidence of infestation, damage, or
3 conducive conditions as part of the transfer, exchange, or refinancing
4 of any structure in Washington state. Complete wood destroying
5 organism inspections include any wood destroying organism inspection
6 that is conducted as the result of telephone solicitation by an
7 inspection, pest control, or other business, even if the inspection
8 would fall within the definition of a specific wood destroying organism
9 inspection.

10 (5) "Defoliant" means any substance or mixture of substances
11 intended to cause the leaves or foliage to drop from a plant with or
12 without causing abscission.

13 (~~(5)~~) (6) "Department" means the Washington state department of
14 agriculture.

15 (~~(6)~~) (7) "Desiccant" means any substance or mixture of
16 substances intended to artificially accelerate the drying of plant
17 tissues.

18 (~~(7)~~) (8) "Device" means any instrument or contrivance intended
19 to trap, destroy, control, repel, or mitigate pests, or to destroy,
20 control, repel or mitigate fungi, nematodes, or such other pests, as
21 may be designated by the director, but not including equipment used for
22 the application of pesticides when sold separately from the pesticides.

23 (~~(8)~~) (9) "Director" means the director of the department or a
24 duly authorized representative.

25 (~~(9)~~) (10) "Distribute" means to offer for sale, hold for sale,
26 sell, barter, or supply pesticides in this state.

27 (~~(10)~~) (11) "EPA" means the United States environmental
28 protection agency.

29 (~~(11)~~) (12) "EPA restricted use pesticide" means any pesticide
30 with restricted uses as classified for restricted use by the
31 administrator, EPA.

32 (~~(12)~~) (13) "FIFRA" means the federal insecticide, fungicide, and
33 rodenticide act as amended (61 Stat. 163, 7 U.S.C. Sec. 136 et seq.).

34 (~~(13)~~) (14) "Fungi" means all nonchlorophyll-bearing thallophytes
35 (all nonchlorophyll-bearing plants of a lower order than mosses and
36 liverworts); for example, rusts, smuts, mildews, molds, yeasts, and
37 bacteria, except those on or in living persons or other animals.

1 ~~((14))~~ (15) "Fungicide" means any substance or mixture of
2 substances intended to prevent, destroy, repel, or mitigate any fungi.
3 ~~((15))~~ (16) "Herbicide" means any substance or mixture of
4 substances intended to prevent, destroy, repel, or mitigate any weed.
5 ~~((16))~~ (17) "Inert ingredient" means an ingredient which is not
6 an active ingredient.
7 ~~((17))~~ (18) "Ingredient statement" means a statement of the name
8 and percentage of each active ingredient together with the total
9 percentage of the inert ingredients in the pesticide, and when the
10 pesticide contains arsenic in any form, the ingredient statement shall
11 also include percentages of total and water soluble arsenic, each
12 calculated as elemental arsenic. In the case of a spray adjuvant the
13 ingredient statement need contain only the names of the principal
14 functioning agents and the total percentage of the constituents
15 ineffective as spray adjuvants. If more than three functioning agents
16 are present, only the three principal ones need by named.
17 ~~((18))~~ (19) "Insect" means any of the numerous small invertebrate
18 animals whose bodies are more or less obviously segmented, and which
19 for the most part belong to the class insecta, comprising six-legged,
20 usually winged forms, for example, beetles, bugs, bees, flies, and to
21 other allied classes of arthropods whose members are wingless and
22 usually have more than six legs, for example, spiders, mites, ticks,
23 centipedes, and isopod crustaceans.
24 ~~((19))~~ (20) "Insecticide" means any substance or mixture of
25 substances intended to prevent, destroy, repel, or mitigate any insects
26 which may be present in any environment whatsoever.
27 ~~((20))~~ (21) "Inspection control number" means a number obtained
28 from the department that is recorded on wood destroying organism
29 inspection reports issued by a structural pest inspector in conjunction
30 with the transfer, exchange, or refinancing of any structure.
31 ~~((21))~~ (22) "Label" means the written, printed, or graphic matter
32 on, or attached to, the pesticide, device, or immediate container, and
33 the outside container or wrapper of the retail package.
34 ~~((22))~~ (23) "Labeling" means all labels and other written,
35 printed, or graphic matter:
36 (a) Upon the pesticide, device, or any of its containers or
37 wrappers;

1 (b) Accompanying the pesticide, or referring to it in any other
2 media used to disseminate information to the public; and

3 (c) To which reference is made on the label or in literature
4 accompanying or referring to the pesticide or device except when
5 accurate nonmisleading reference is made to current official
6 publications of the department, United States departments of
7 agriculture; interior; education; health and human services; state
8 agricultural colleges; and other similar federal or state institutions
9 or agencies authorized by law to conduct research in the field of
10 pesticides.

11 ((+23)) (24) "Land" means all land and water areas, including
12 airspace and all plants, animals, structures, buildings, devices and
13 contrivances, appurtenant thereto or situated thereon, fixed or mobile,
14 including any used for transportation.

15 ((+24)) (25) "Master license system" means the mechanism
16 established by chapter 19.02 RCW by which master licenses, endorsed for
17 individual state-issued licenses, are issued and renewed using a master
18 application and a master license expiration date common to each
19 renewable license endorsement.

20 ((+25)) (26) "Nematocide" means any substance or mixture of
21 substances intended to prevent, destroy, repel, or mitigate nematodes.

22 ((+26)) (27) "Nematode" means any invertebrate animal of the
23 phylum nemathelminthes and class nematoda, that is, unsegmented round
24 worms with elongated, fusiform, or saclike bodies covered with cuticle,
25 and inhabiting soil, water, plants or plant parts, may also be called
26 nemas or eelworms.

27 ((+27)) (28) "Person" means any individual, partnership,
28 association, corporation, or organized group of persons whether or not
29 incorporated.

30 ((+28)) (29) "Pest" means, but is not limited to, any insect,
31 rodent, nematode, snail, slug, weed and any form of plant or animal
32 life or virus, except virus on or in a living person or other animal,
33 which is normally considered to be a pest or which the director may
34 declare to be a pest.

35 ((+29)) (30) "Pest control consultant" means any individual who
36 (~~acts as a structural pest inspector, who~~) sells or offers for sale
37 at other than a licensed pesticide dealer outlet or location where they

1 are employed, or who offers or supplies technical advice(~~(~~
2 ~~supervision, or aid,~~)) or makes recommendations to the user of:

- 3 (a) Highly toxic pesticides, as determined under RCW 15.58.040;
- 4 (b) EPA restricted use pesticides or restricted use pesticides
5 which are restricted by rule to distribution by licensed pesticide
6 dealers only; or
- 7 (c) Any other pesticide except those pesticides which are labeled
8 and intended for home and garden use only.

9 (~~(+30+)~~) (31) "Pesticide" means, but is not limited to:

- 10 (a) Any substance or mixture of substances intended to prevent,
11 destroy, control, repel, or mitigate any insect, rodent, snail, slug,
12 fungus, weed, and any other form of plant or animal life or virus,
13 except virus on or in a living person or other animal which is normally
14 considered to be a pest or which the director may declare to be a pest;
- 15 (b) Any substance or mixture of substances intended to be used as
16 a plant regulator, defoliant or desiccant; and
- 17 (c) Any spray adjuvant.

18 (~~(+31+)~~) (32) "Pesticide advisory board" means the pesticide
19 advisory board as provided for in the Washington pesticide application
20 act.

21 (~~(+32+)~~) (33) "Pesticide dealer" means any person who distributes
22 any of the following pesticides:

- 23 (a) Highly toxic pesticides, as determined under RCW 15.58.040;
- 24 (b) EPA restricted use pesticides or restricted use pesticides
25 which are restricted by rule to distribution by licensed pesticide
26 dealers only; or
- 27 (c) Any other pesticide except those pesticides which are labeled
28 and intended for home and garden use only.

29 (~~(+33+)~~) (34) "Pesticide dealer manager" means the owner or other
30 individual supervising pesticide distribution at one outlet holding a
31 pesticide dealer license.

32 (~~(+34+)~~) (35) "Plant regulator" means any substance or mixture of
33 substances intended through physiological action, to accelerate or
34 retard the rate of growth or maturation, or to otherwise alter the
35 behavior of ornamental or crop plants or their produce, but shall not
36 include substances insofar as they are intended to be used as plant
37 nutrients, trace elements, nutritional chemicals, plant inoculants, or
38 soil amendments.

1 ~~((35))~~ (36) "Registrant" means the person registering any
2 pesticide under the provisions of this chapter.

3 ~~((36))~~ (37) "Restricted use pesticide" means any pesticide or
4 device which, when used as directed or in accordance with a widespread
5 and commonly recognized practice, the director determines, subsequent
6 to a hearing, requires additional restrictions for that use to prevent
7 unreasonable adverse effects on the environment including people,
8 lands, beneficial insects, animals, crops, and wildlife, other than
9 pests.

10 ~~((37))~~ (38) "Rodenticide" means any substance or mixture of
11 substances intended to prevent, destroy, repel, or mitigate rodents, or
12 any other vertebrate animal which the director may declare by rule to
13 be a pest.

14 ~~((38))~~ (39) "Specific wood destroying organism inspection" means
15 an inspection of a structure for purposes of identifying or verifying
16 evidence of an infestation of wood destroying organisms prior to pest
17 management activities.

18 (40) "Spray adjuvant" means any wetting agent, spreading agent,
19 deposit builder, adhesive, emulsifying agent, deflocculating agent,
20 water modifier, or similar agent with or without toxic properties of
21 its own, intended to be used with any other pesticide as an aid to the
22 application or to the effect of the pesticide, and which is in a
23 package or container separate from that of the pesticide with which it
24 is to be used.

25 ~~((39))~~ (41) "Special local needs registration" means a
26 registration issued by the director pursuant to provisions of section
27 24(c) of FIFRA.

28 ~~((40))~~ (42) "Structural pest inspector" means any individual who
29 performs the service of ~~((inspecting a building for))~~ conducting a
30 complete wood destroying ~~((organisms, their damage, or conditions~~
31 ~~conducive to their infestation))~~ organism inspection or a specific wood
32 destroying organism inspection.

33 ~~((41))~~ (43) "Unreasonable adverse effects on the environment"
34 means any unreasonable risk to people or the environment taking into
35 account the economic, social, and environmental costs and benefits of
36 the use of any pesticide, or as otherwise determined by the director.

37 ~~((42))~~ (44) "Weed" means any plant which grows where not wanted.

1 (~~(43)~~) (45) "Wood destroying organism" means insects or fungi
2 that consume, excavate, develop in, or otherwise modify the integrity
3 of wood or wood products. Wood destroying organism includes, but is
4 not limited to, carpenter ants, moisture ants, subterranean termites,
5 dampwood termites, beetles in the family Anobiidae, and wood decay
6 fungi (wood rot).

7 (46) "Wood destroying organism inspection report" means any written
8 document that reports or comments on the presence or absence of wood
9 destroying organisms, their damage, and/or conducive conditions leading
10 to the establishment of such organisms.

11 **Sec. 2.** RCW 15.58.040 and 2000 c 96 s 8 are each amended to read
12 as follows:

13 (1) The director shall administer and enforce the provisions of
14 this chapter and rules adopted under this chapter. All the authority
15 and requirements provided for in chapter 34.05 RCW (Administrative
16 Procedure Act) and chapter 42.30 RCW shall apply to this chapter in the
17 adoption of rules including those requiring due notice and a hearing
18 for the adoption of permanent rules.

19 (2) The director is authorized to adopt appropriate rules for
20 carrying out the purpose and provisions of this chapter, including but
21 not limited to rules providing for:

22 (a) Declaring as a pest any form of plant or animal life or virus
23 which is injurious to plants, people, animals (domestic or otherwise),
24 land, articles, or substances;

25 (b) Determining that certain pesticides are highly toxic to people.
26 For the purpose of this chapter, highly toxic pesticide means any
27 pesticide that conforms to the criteria in 40 C.F.R. Sec. 156.10 for
28 toxicity category I due to oral inhalation or dermal toxicity. The
29 director shall publish a list of all pesticides, determined to be
30 highly toxic, by their common or generic name and their trade or brand
31 name if practical. Such list shall be kept current and shall, upon
32 request, be made available to any interested party;

33 (c) Determining standards for denaturing pesticides by color,
34 taste, odor, or form;

35 (d) The collection and examination of samples of pesticides or
36 devices;

1 (e) The safe handling, transportation, storage, display,
2 distribution, and disposal of pesticides and their containers;

3 (f) Restricting or prohibiting the use of certain types of
4 containers or packages for specific pesticides. These restrictions may
5 apply to type of construction, strength, and/or size to alleviate
6 danger of spillage, breakage, misuse, or any other hazard to the
7 public. The director shall be guided by federal regulations concerning
8 pesticide containers;

9 (g) Procedures in making of pesticide recommendations;

10 (h) Adopting a list of restricted use pesticides for the state or
11 for designated areas within the state if the director determines that
12 such pesticides may require rules restricting or prohibiting their
13 distribution or use. The director may include in the rule the time and
14 conditions of distribution or use of such restricted use pesticides and
15 may, if it is found necessary to carry out the purpose and provisions
16 of this chapter, require that any or all restricted use pesticides
17 shall be purchased, possessed, or used only under permit of the
18 director and under the director's direct supervision in certain areas
19 and/or under certain conditions or in certain quantities or
20 concentrations. The director may require all persons issued such
21 permits to maintain records as to the use of all the restricted use
22 pesticides;

23 (i) Label requirements of all pesticides required to be registered
24 under provisions of this chapter;

25 (j) Regulating the labeling of devices;

26 (k) The establishment of criteria governing the conduct of a
27 structural pest inspection; ~~((and))~~

28 (l) Declaring crops, when grown to produce seed specifically for
29 crop reproduction purposes, to be nonfood and/or nonfeed sites of
30 pesticide application. The director may include in the rule any
31 restrictions or conditions regarding: (i) The application of
32 pesticides to the designated crops; and (ii) the disposition of any
33 portion of the treated crop;

34 (m) Fixing and collecting examination fees; and

35 (n) Requiring individuals to earn recertification credits in the
36 classifications in which they are licensed.

37 (3) For the purpose of uniformity and to avoid confusion
38 endangering the public health and welfare the director may adopt rules

1 in conformity with the primary pesticide standards, particularly as to
2 labeling, established by the United States environmental protection
3 agency or any other federal agency.

4 **Sec. 3.** RCW 15.58.150 and 2000 c 96 s 6 are each amended to read
5 as follows:

6 (1) It is unlawful for any person to distribute within the state or
7 deliver for transportation or transport in intrastate commerce or
8 between points within this state through any point outside this state
9 any of the following:

10 (a) Any pesticide which has not been registered pursuant to the
11 provisions of this chapter;

12 (b) Any pesticide if any of the claims made for it or any of the
13 directions for its use or other labeling differs from the
14 representations made in connection with its registration, or if the
15 composition of a pesticide differs from its composition as represented
16 in connection with its registration: PROVIDED, That at the discretion
17 of the director, a change in the labeling or formula of a pesticide may
18 be made within a registration period without requiring reregistration
19 of the product;

20 (c) Any pesticide unless it is in the registrant's or the
21 manufacturer's unbroken immediate container and there is affixed to
22 such container, and to the outside container or wrapper of the retail
23 package, if there is one through which the required information on the
24 immediate container cannot be clearly read, a label bearing the
25 information required in this chapter and the rules adopted under this
26 chapter;

27 (d) Any pesticide including arsenicals, fluorides, fluosilicates,
28 and/or any other white powdered pesticides unless they have been
29 distinctly denatured as to color, taste, odor, or form if so required
30 by rule;

31 (e) Any pesticide which is adulterated or misbranded, or any device
32 which is misbranded;

33 (f) Any pesticide in containers, violating rules adopted pursuant
34 to RCW 15.58.040(2)(f) or pesticides found in containers which are
35 unsafe due to damage.

36 (2) It shall be unlawful:

1 (a) To sell or deliver any pesticide to any person who is required
2 by law or rules promulgated under such law to be certified, licensed,
3 or have a permit to use or purchase the pesticide unless such person or
4 the person's agent, to whom sale or delivery is made, has a valid
5 certification, license, or permit to use or purchase the kind and
6 quantity of such pesticide sold or delivered: PROVIDED, That, subject
7 to conditions established by the director, such permit may be obtained
8 immediately prior to sale or delivery from any person designated by the
9 director;

10 (b) For any person to detach, alter, deface or destroy, wholly or
11 in part, any label or labeling provided for in this chapter or rules
12 adopted under this chapter, or to add any substance to, or take any
13 substance from, a pesticide in a manner that may defeat the purpose of
14 this chapter or the rules adopted thereunder;

15 (c) For any person to use or cause to be used any pesticide
16 contrary to label directions or to regulations of the director if those
17 regulations differ from or further restrict the label directions:
18 PROVIDED, The compliance to the term "contrary to label directions" is
19 enforced by the director consistent with the intent of this chapter;

20 (d) For any person to use for his or her own advantage or to
21 reveal, other than to the director or proper officials or employees of
22 the state, or to the courts of the state in response to a subpoena, or
23 to physicians, or in emergencies to pharmacists and other qualified
24 persons for use in the preparation of antidotes, any information
25 relative to formulas of products acquired by authority of RCW
26 15.58.060;

27 (e) For any person to make false, misleading, or erroneous
28 statements or reports concerning any pest during or after a pest
29 inspection or to fail to comply with criteria established by rule for
30 structural pest inspections;

31 (f) For any person to make false, misleading, or erroneous
32 statements or reports in connection with any pesticide complaint or
33 investigation;

34 (g) For any person to act as, or advertise that (~~the person is a~~
35 ~~licensed~~) they perform the services of, a structural pest inspector
36 without having a (~~valid pest control consultant~~) license (~~in the~~
37 ~~category of~~) to act as a structural pest inspector;

1 (h) For a business to conduct one or more complete wood destroying
2 organism inspections without first having obtained a structural pest
3 inspection company license from the department.

4 **Sec. 4.** RCW 15.58.210 and 2000 c 96 s 9 are each amended to read
5 as follows:

6 (1) Except as provided in subsection (2) of this section, no
7 individual may perform services as a pest control consultant without
8 obtaining a license from the director. The license shall expire
9 annually on a date set by rule by the director. ~~((Except as provided~~
10 ~~in subsection (3) of this section, no individual may act as a~~
11 ~~structural pest inspector without first obtaining from the director a~~
12 ~~pest control consultant license in the special category of structural~~
13 ~~pest inspector.))~~ Application for a license shall be on a form
14 prescribed by the director and shall be accompanied by a fee of forty-
15 five dollars.

16 (2) The following are exempt from the licensing requirements of
17 subsection (1) of this section when acting within the authorities of
18 their existing licenses issued under chapter 17.21 RCW: Licensed
19 commercial pesticide applicators and operators; licensed
20 private-commercial applicators; and licensed demonstration and research
21 applicators. The following are also exempt from the licensing
22 requirements of subsection (1) of this section: Employees of federal,
23 state, county, or municipal agencies when acting in their official
24 governmental capacities; and pesticide dealer managers and employees
25 working under the direct supervision of the pesticide dealer manager
26 and only at a licensed pesticide dealer's outlet.

27 ~~((3) The following are exempt from the structural pest inspector~~
28 ~~licensing requirement: Individuals inspecting for damage caused by~~
29 ~~wood destroying organisms if such inspections are solely for the~~
30 ~~purpose of: (a) Repairing or making specific recommendations for the~~
31 ~~repair of such damage, or (b) assessing a monetary value for the~~
32 ~~structure inspected. Individuals performing wood destroying organism~~
33 ~~inspections that incorporate but are not limited to the activities~~
34 ~~described in (a) or (b) of this subsection are not exempt from the~~
35 ~~structural pest inspector licensing requirement.))~~

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 15.58 RCW
2 to read as follows:

3 (1) Except as provided in subsection (2) of this section, no
4 individual may perform services as a structural pest inspector or
5 advertise that they perform services of a structural pest inspector
6 without obtaining a structural pest inspector license from the
7 director. The license expires annually on a date set by rule by the
8 director. Application for a license must be on a form prescribed by
9 the director and must be accompanied by a fee of forty-five dollars.

10 (2) The following are exempt from the application fee requirement
11 of subsection (1) of this section when acting within the authorities of
12 their existing licenses issued under chapter 15.58 or 17.21 RCW:
13 Licensed pest control consultants; licensed commercial pesticide
14 applicators and operators; licensed private-commercial applicators; and
15 licensed demonstration and research applicators.

16 (3) The following are exempt from the structural pest inspector
17 licensing requirement: Individuals inspecting for damage caused by
18 wood destroying organisms if the inspections are solely for the purpose
19 of: (a) Repairing or making specific recommendations for the repair of
20 the damage, or (b) assessing a monetary value for the structure
21 inspected. Individuals performing wood destroying organism inspections
22 that incorporate but are not limited to the activities described in (a)
23 or (b) of this subsection are not exempt from the structural pest
24 inspector licensing requirement.

25 (4) Persons holding a valid license to act as a structural pest
26 inspector on the effective date of this section are exempt from this
27 requirement until expiration of that license.

28 (5) A structural pest inspector license is not valid for conducting
29 a complete wood destroying organism inspection unless the inspector
30 owns or is employed by a business with a structural pest inspection
31 company license.

32 NEW SECTION. **Sec. 6.** A new section is added to chapter 15.58 RCW
33 to read as follows:

34 The director shall require each applicant for a structural pest
35 inspector license to demonstrate to the director the applicant's
36 knowledge of applicable laws and regulations; structural pest
37 identification and damage; and conditions conducive to the development

1 of wood destroying organisms by satisfactorily passing a written
2 examination for the classifications for which the applicant has applied
3 prior to issuing the license.

4 **Sec. 7.** RCW 15.58.233 and 2000 c 96 s 7 are each amended to read
5 as follows:

6 (1) The director may renew any license issued under this chapter
7 subject to the recertification standards identified in subsection (2)
8 of this section or an examination requiring new knowledge that may be
9 required to (~~apply pesticides~~) perform in those areas licensed.

10 (2) Except as provided in subsection (3) of this section, all
11 individuals licensed under this chapter shall meet the recertification
12 standards identified in (a) or (b) of this subsection, every five
13 years, in order to qualify for continuing licensure.

14 (a) Individuals licensed under this chapter may qualify for
15 continued licensure through accumulation of recertification credits.
16 Individuals licensed under this chapter shall accumulate a minimum of
17 forty department-approved credits every five years with no more than
18 fifteen credits allowed per year.

19 (b) Individuals licensed under this chapter may qualify for
20 continued licensure through meeting the examination requirements
21 necessary to become licensed in those areas in which the licensee
22 operates.

23 (3) At the termination of a licensee's five-year recertification
24 period, the director may waive the recertification requirements if the
25 licensee can demonstrate that he or she is meeting comparable
26 recertification standards through another state or jurisdiction or
27 through a federal environmental protection agency-approved government
28 agency plan.

29 NEW SECTION. **Sec. 8.** A new section is added to chapter 15.58 RCW
30 to read as follows:

31 It is unlawful for any business to conduct complete wood destroying
32 organism inspections without having obtained a company license from the
33 director. Application for a structural pest inspection company license
34 must be on a form prescribed by the director. The application must
35 include the following information:

36 (1) The full name of the individual applying for such license;

1 (2) The full name of the company that employs structural pest
2 inspectors;

3 (3) The physical and mailing addresses of the company, and the
4 telephone and facsimile numbers, if available;

5 (4) A list of the names of the structural pest inspectors who are
6 employed by the company;

7 (5) The unique business identifier for the company; and

8 (6) Any other necessary information prescribed by the director.

9 Any changes to the information on the prescribed structural pest
10 inspection company license form shall be reported by the company to the
11 department within thirty days of the change.

12 **Sec. 9.** RCW 15.58.460 and 2000 c 96 s 3 are each amended to read
13 as follows:

14 ~~(1) ((The director shall not issue a license to any person who
15 intends to act as a structural pest inspector until the person has
16 furnished evidence of financial responsibility.~~

17 ~~(2) Evidence of financial responsibility shall consist of either a
18 surety bond or an errors and omissions insurance policy or
19 certification thereof, protecting persons who may suffer legal damages
20 as a result of actions by the structural pest inspector. The director
21 shall not accept a surety bond or insurance policy except from
22 authorized insurers in this state.~~

23 ~~(3) Evidence of financial responsibility shall be supplied to the
24 department on a financial responsibility insurance certificate or
25 surety bond form.))~~ The director shall not issue a license to any
26 individual who intends to act as a structural pest inspector until
27 evidence of financial responsibility, required and described in
28 subsection (2) of this section, is furnished by the applicant or the
29 business employing the applicant. Licensed commercial applicators that
30 have met the requirements of RCW 17.21.160 and their licensed
31 commercial operator employees are exempt from this financial
32 responsibility requirement when performing specific wood destroying
33 organism inspections. Public employees licensed to perform structural
34 pest inspections are exempt from this licensing requirement when acting
35 within their official capacities.

36 (2) Evidence of financial responsibility, consisting of one of the
37 following, must be provided and maintained as a condition of licensure:

1 (a) An errors and omissions insurance policy, the amount and terms
2 of which are consistent with the requirements of RCW 15.58.465(1)(a);

3 (b) A surety bond, the amounts and terms of which are consistent
4 with the requirements of RCW 15.58.465(1)(b);

5 (c) A surety bond and an errors and omissions insurance policy, the
6 amount and terms of which are consistent with the requirements of RCW
7 15.58.465(1)(c);

8 (d) An assigned account, the amount and terms of which are
9 consistent with the requirements of RCW 15.58.465(1)(d);

10 (e) Any other type of evidence of financial responsibility
11 identified by the director by rule that provides coverage equivalent to
12 that provided by any of (a) through (d) of this subsection.

13 (3) Evidence of financial responsibility must be supplied to the
14 department on a financial responsibility insurance certificate, surety
15 bond form, assigned account form, or other form prescribed by the
16 director with regard to evidence provided under subsection (2)(e) of
17 this section.

18 **Sec. 10.** RCW 15.58.465 and 2000 c 96 s 4 are each amended to read
19 as follows:

20 ~~(1) ((The following requirements apply to the amount of surety bond~~
21 ~~or insurance required for structural pest inspectors.~~

22 ~~(a) The amount of the surety bond or errors and omissions~~
23 ~~insurance, as provided for in RCW 15.58.460, shall be not less than~~
24 ~~twenty five thousand dollars and fifty thousand dollars respectively.~~
25 ~~The surety bond or insurance policy shall be maintained at not less~~
26 ~~than the required sum at all times during the licensed period.~~

27 ~~(b) The director shall be notified ten days before any reduction of~~
28 ~~insurance coverage at the request of the applicant or cancellation of~~
29 ~~the surety bond or insurance by the surety or insurer and by the~~
30 ~~insured.~~

31 ~~(c) The total and aggregate of the surety and insurer for all~~
32 ~~claims is limited to the face of the surety bond or insurance policy.~~
33 ~~The director may accept a surety bond or insurance policy in the proper~~
34 ~~sum that has a deductible clause in an amount not exceeding five~~
35 ~~thousand dollars for the total amount of surety bond or insurance~~
36 ~~required by this section. If the applicant has not satisfied the~~
37 ~~requirement of the deductible amount in any prior legal claim the~~

1 ~~deductible clause shall not be accepted by the director unless the~~
2 ~~applicant furnishes the director with a surety bond or insurance policy~~
3 ~~which shall satisfy the amount of the deductible as to all claims that~~
4 ~~may arise.~~

5 ~~(2) Insurance policies must be written on an occurrence basis.~~

6 ~~(3) Insurance policies shall have a minimum three year occurrence~~
7 ~~clause.)~~ The following requirements apply to the forms of evidence of
8 financial responsibility required under RCW 15.58.460.

9 (a) **Errors and Omissions Insurance.** The amount of the errors and
10 omissions insurance policy required by RCW 15.58.460(2)(a) shall not be
11 less than twenty-five thousand dollars. The insurance policy shall be
12 maintained at not less than the required sum at all times during the
13 licensed period. The insurance policy shall provide coverage for
14 errors and omissions in an inspection conducted during the term of the
15 policy. However, the policy may limit the insurer's liability on the
16 policy in effect at the time of the inspection to two years from the
17 date of the inspection.

18 (b) **Surety Bond.** The amount of the surety bond required by RCW
19 15.58.460(2)(b) shall not be less than twenty-five thousand dollars.
20 The surety bond shall be maintained at not less than the required sum
21 at all times during the licensed period. Any person having a claim
22 against the structural pest inspector for legal damages as a result of
23 the actions of the structural pest inspector may bring suit upon the
24 bond in the court of the county in which the inspection took place or
25 of the county in which jurisdiction of the structural pest inspector
26 may be had. The surety issuing the bond shall be named as a party to
27 any suit upon the bond. The suit upon the bond must be commenced
28 within two years of the date of the inspection.

29 (c) **Surety Bond and Errors and Omissions Insurance.** The amount of
30 the surety bond required by RCW 15.58.460(2)(c) shall not be less than
31 twelve thousand five hundred dollars. Except as to the amount of the
32 bond, the terms of the bond shall be identical to those set forth in
33 (b) of this subsection. The amount of the errors and omissions
34 insurance policy required by RCW 15.58.460(2)(c) shall not be less than
35 twenty-five thousand dollars. The insurance policy shall be maintained
36 at not less than the required sum at all times during the licensed
37 period. The insurance policy shall provide coverage for errors and
38 omissions in an inspection conducted during the term of the policy.

1 (d) **Assigned Account.** The amount of the assigned account required
2 by RCW 15.58.460(2)(d) shall not be less than twenty-five thousand
3 dollars. The assigned account shall be held by the department to
4 satisfy any execution on a judgment issued against the inspector for
5 legal damages resulting from errors and omissions in the conduct of an
6 inspection, according to the provisions of the assigned account
7 agreement. The department has no liability for payment in excess of
8 the amount of the assigned account.

9 (i) The assigned account agreement filed with the director as
10 evidence of financial responsibility shall be canceled at the
11 expiration of two years after the inspector's license has expired or
12 been revoked, or at the expiration of two years after the inspector has
13 furnished another form of evidence of financial responsibility required
14 by RCW 15.58.460, unless legal action has been instituted against the
15 inspector prior to the expiration of the two-year period and the
16 director has been provided written notice of the same by the claimant.
17 In such a case the director shall not cancel the assigned account
18 agreement until the director either receives a copy of the order
19 dismissing the action by registered or certified mail, or has received
20 a copy of the unsatisfied judgment and has complied with the
21 requirements of (d)(ii) of this subsection.

22 (ii) Any person having an unsatisfied final judgment against the
23 inspector for legal damages awarded based on errors and omissions in
24 the conduct of an inspection may execute upon the funds in the assigned
25 account by serving a certified copy of the unsatisfied final judgment
26 by registered or certified mail upon the department within one year of
27 the date of entry of such judgment. Upon the receipt of service of
28 such certified copy the department shall direct the financial
29 institution to pay from the assigned account, through the registry of
30 the court which rendered judgment, towards the amount of the
31 unsatisfied judgment. The priority of payment from the assigned
32 account shall be the order of receipt of the final judgment by the
33 department.

34 (2) Nothing in subsection (1) of this section that limits the time
35 period in which a suit must be commenced on a surety bond or in which
36 a claim must be made on a policy effects the statute of limitations
37 applicable to any claim any person may have against the structural pest
38 inspector or company.

1 (3) The director may only accept a surety bond or insurance policy
2 as evidence of financial responsibility if the bond or policy is issued
3 by an insurer authorized to do business in this state. The director
4 shall be notified ten days before any reduction of insurance coverage
5 at the request of the applicant or cancellation of the surety bond or
6 insurance by the surety or insurer and by the insured.

7 (4) The total and aggregate of the surety and insurer for all
8 claims is limited to the face of the surety bond or insurance policy.
9 The director may accept a surety bond or insurance policy in the proper
10 sum that has a deductible clause in an amount not exceeding five
11 thousand dollars for the total amount of surety bond or insurance
12 required by this section. If the applicant has not satisfied the
13 requirement of the deductible amount in any prior legal claim the
14 deductible clause may not be accepted by the director unless the
15 applicant furnishes the director with a surety bond or insurance policy
16 which satisfies the amount of the deductible as to all claims that may
17 arise.

18 **Sec. 11.** RCW 15.58.470 and 2000 c 96 s 5 are each amended to read
19 as follows:

20 Whenever ~~((a structural pest inspector's surety bond or insurance~~
21 ~~policy))~~ the form of evidence of financial responsibility for a
22 structural pest inspector license is reduced below the requirements of
23 RCW 15.58.465 or no longer applies to the structural pest inspector, or
24 whenever the ((person)) licensee or the business that employs the
25 licensee has failed to provide evidence of financial responsibility as
26 required by RCW 15.58.460 by the expiration date of ((the)) any
27 previous ((surety bond or insurance policy)) form of evidence of
28 financial responsibility, the director shall immediately suspend the
29 ((person's)) structural pest inspector license until the ((person's
30 surety bond or insurance policy again meets the)) requirements of RCW
31 15.58.465 are met again.

32 NEW SECTION. **Sec. 12.** This act is necessary for the immediate
33 preservation of the public peace, health, or safety, or support of the
34 state government and its existing public institutions, and takes effect

1 July 1, 2003.

Passed by the House March 10, 2003.

Passed by the Senate April 10, 2003.

Approved by the Governor May 9, 2003.

Filed in Office of Secretary of State May 9, 2003.