

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 231
HOUSE BILL 64

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

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-65.22 is rewritten to read as follows:

"This Article shall be known by the title of 'Structural Pest Control Act of North Carolina of 1955'. It is declared to be the policy of this State that the regulation of persons, corporations and firms engaged in the business of structural pest control in this State, as defined in G.S. 106-65.25, is in the public interest in order to ensure a high quality of workmanship and in order to prevent deception, fraud and unfair trade practices in the conduct of said business. The General Assembly finds that quality of structural pest control work is not easily determined by the general public due to the inaccessibility of the areas treated and the complexity of the methods of treatment."

Sec. 2. G.S. 106-65.23 as the same appears in the 1976 Interim Supplement is amended by rewriting the first paragraph thereof to read as follows:

"There is hereby re-created, within the North Carolina Department of Agriculture, a division thereof, to be known as the Structural Pest Control Division of said department.

The Commissioner of Agriculture is hereby authorized to appoint a director of said division whose duties and authority shall be determined by the commissioner. Said director shall act as secretary to the Structural Pest Control Committee herein created."

Sec. 3. G.S. 106-65.24 is amended by inserting between subdivision (8) and subdivision (9) the following:

"(8a) 'Director' means the director of the Structural Pest Control Division of the Department of Agriculture."

Sec. 4. G.S. 106-65.24 is further amended by inserting between subdivision (9) and subdivision (10) the following:

"(9a) 'Enforcement agency' means the Structural Pest Control Division of the Department of Agriculture."

Sec. 5. G.S. 106-65.24 is further amended by inserting between subdivision (14) and subdivision (15) the following:

"(14a) The term 'labeling' means all labels and other written, printed, or graphic matter.

- a. Upon the pesticide (or device) or any of its containers or wrappers;
- b. accompanying the pesticide (or device) at any time;
- c. to which reference is made on the label or in literature accompanying the pesticide (or device) except when accurate nonmisleading reference is made to current official publications of the United States Department of Agriculture or Interior, the United States Public Health Service, state experiment stations, state agricultural colleges, or other similar federal institutions or official agencies of this State or other states authorized by the law to conduct research in the field of pesticides."

Sec. 6. G.S. 106-65.27 as the same appears in the 1976 Interim Supplement is amended by rewriting paragraph (c) to read as follows:

"A license shall not be transferable. When there is a transfer of ownership, management or operation of a business of a licensee hereunder, there shall be not more than a total of 90 days during any 12-month period in which any individual, firm, partnership, corporation or other entity, shall not have a qualified licensee to operate said business; and further provided, during each of the periods specified under this section, the use of any restricted use pesticide by any person representing said business agent or agency shall be by or under the direct supervision of a person possessing a valid certified applicator's identification card. A new licensee shall be responsible for correcting all discrepancies committed by the preceding licensee of said business or anyone working under his license during the 12-month period next preceding his becoming the designated licensee and he shall further be responsible for correcting discrepancies for all existing contracts. A discrepancy shall mean failure of the licensee to follow any rule and regulation concerning treating procedures adopted by the committee under provisions of this Article."

Sec. 7. G.S. 106-65.28 as the same appears in the 1976 Interim Supplement is amended by designating the last three paragraphs thereof as subsections (c), (d) and (e).

Sec. 8. G.S. 106-65.28 as the same appears in the 1976 Interim Supplement is amended by inserting after the word "card" in line 1 thereof, the words "or operator's identification card".

G.S. 106-65.28 is further amended by inserting after the word "be" in line 3 thereof, the word "denied".

G.S. 106-65.28 is further amended by adding the words "or operator's identification card" at the end of subdivision (a)(4).

G.S. 106-65.28 is further amended by inserting after the word "card" in line 5 of subsection (a)(6) the words "or operator's identification card".

G.S. 106-65.28 is further amended by inserting the words "or operator's identification card" after the word "card" in line 2 of subsection (b).

G.S. 106-65.28 is further amended by inserting the words "or operator's identification card" after the word "card" in line 1 of subsection (c).

G.S. 106-65.28(d) as the same appears in the 1976 Interim Supplement is rewritten in its entirety as follows:

"(d) Any licensee whose license or certified applicator or operator whose identification card is revoked under the provisions of this Article shall not be eligible to apply for a new license or certified applicator's identification card or operator's identification card hereunder until two years have elapsed from the date of the order revoking said license or certified applicator's identification card or operator's identification card or if an appeal is taken from said order of revocation, two years from the date of the order or final judgement sustaining said revocation."

G.S. 106-65.28(e) as the same appears in the 1976 Interim Supplement is rewritten in its entirety as follows:

"(e) The lapsing of a State structural pest control license or certified applicator's identification card or operator's identification card by operation of law or the voluntary surrender of said license or said card shall not deprive the committee of jurisdiction to proceed with any investigation or disciplinary proceedings against such licensee or card holder or to render a decision suspending or revoking such license or card."

Sec. 9. G.S. 106-65.29 is rewritten in its entirety to read as follows:

"In order to ensure that persons licensed and certified under this Article are capable of performing a high quality of workmanship, the committee is hereby authorized and empowered to make rules and regulations with respect to:

- (1) The amount and kind of training required of an applicant for a license and certified applicator's card to engage in any one or more of the three phases of structural pest control.
- (2) The type, frequency and passing score of any examination given an applicant for a license and certified applicator's card under this Article.
- (3) The amount, kind and frequency of continuing education required of a licensee and certified applicator.
- (4) The methods and materials to be used in performing any work authorized by the issuance of a license and certified applicator's card under this Article.
- (5) The business records to be made and maintained by licensees and certified applicators under this Article necessary for the committee to determine whether the licensee and certified applicator is performing a high quality of workmanship.
- (6) The credentials and identification required of licensees and certified applicators, their employees and equipment, including service vehicles, when engaged in any work defined under this Article.
- (7) Safety methods and procedures for structural pest control work.

Such rules and regulations shall not become effective until a public hearing shall have been held and notification of such hearing shall have been given to all licensees and certified applicators."

G.S. 106-65.28(a) is further amended by adding at the end thereof the following:

- (11) Falsification of records required to be kept by this Article or the rules and regulations of the committee."

Sec. 10. G.S. 106-65.30 as the same appears in the 1976 Interim Supplement is amended by adding thereto the following paragraph:

"The commissioner shall have authority to appoint personnel of the Structural Pest Control Division as special inspectors and said special inspectors are hereby vested with the authority to arrest with a warrant, or to arrest without a warrant when a violation of this Article is being committed in their presence or they have reasonable grounds to believe that a violation of this Article is being committed in their presence. Said special inspectors shall take offenders before the several courts of this State for prosecution or other proceedings. The provisions of this section do not apply to any person holding a valid structural pest control license, or a certified applicator's identification card, or an operator's identification card as issued under the provisions of this Article. Special inspectors shall not be entitled to the benefits of the Law Enforcement Officers' Benefit and Retirement Fund or the benefits of the Law Enforcement Officers' and Others Death Benefit Act as provided for in Articles 12 and 12A of Chapter 143 of the General Statutes, respectively."

Sec. 11. G.S. 106-65.33 is rewritten in its entirety to read as follows:

"Any person who shall be adjudged to have violated any provision of this Article or who falsifies any records required to be kept by this Article or by the rules and regulations pursuant to this Article or who uses a registered pesticide in a manner inconsistent with its labeling shall be guilty of a misdemeanor, and for each violation shall be liable for a penalty of not less than one hundred dollars (\$100.00) or not more than one thousand dollars (\$1,000) or shall be imprisoned for not less than 60 days nor more than six months, or both. In addition, if any person continues to violate or further violates any provision of this Article after written notice from the committee, the court may determine that each day during which the violation continued or is repeated constitutes a separate violation subject to the foregoing penalties."

Sec. 12. Article 4C of Chapter 106 of the General Statutes is further amended by adding a new section thereto as follows:

"All fees and charges received by the division under this Article shall be deposited in the Department of Agriculture General Fund Budget for the purpose of administration and

enforcement of this Article, with proper approved accounting procedures accounting for all expenditures and receipts."

Sec. 13. The superior court is vested with jurisdiction specifically to enforce and to prevent and restrain violations of this Article and shall have jurisdiction in all other cases arising under this Article.

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

In the General Assembly read three times and ratified, this the 19th day of April, 1977.