



Texas Structural Pest Control Board

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H.B. 2458 B. Cook, et al. (Brimer)

Summary

The Legislature created the Texas Structural Pest Control Board (the Board) in 1971 to ensure that those who perform pest control activities in buildings, homes, and other structures are qualified, competent, and adhere to established professional standards. The Board has two primary functions: license commercial and non-commercial pest control professionals, and enforce the Texas Structural Pest Control Act and federal law through inspections and complaint investigations. With a staff of 29 employees and an annual budget of \$1.4 million, the Board currently licenses more than 16,000 pest control business and applicators.

House Bill 2458 abolishes the Structural Pest Control Board and transfers its functions to the Texas Department of Agriculture (TDA). The bill contains other recommendations of the Sunset Commission, including requiring TDA to develop a risk-based approach to inspections, a formal process for exam development, and more clear and consistent guidance for pesticide use in schools. The list below summarizes the major provisions of H.B. 2458, and a more detailed discussion follows.

Sunset Provisions

1. Abolish the Structural Pest Control Board and transfer its functions to the Texas Department of Agriculture.
2. Allow the Department of Agriculture to determine its inspection frequency based on an assessment of risk.
3. Require TDA to develop a formal process for licensing exam development and revision.
4. Improve the Integrated Pest Management Program to provide more clear and consistent guidance to schools.
5. Conform key elements of TDA's licensing and regulatory functions to commonly applied licensing practices.
6. Allow beekeepers to remove bees from structures without a pest control license, as long as they do not use pesticides.

Sunset Provisions

1. Abolish the Structural Pest Control Board and transfer its functions to the Texas Department of Agriculture.

House Bill 2458 abolishes the Board as an independent agency and transfers the regulation of the structural pest control industry to the Department of Agriculture. The Commissioner of Agriculture will be responsible for administering the Structural Pest Control Act, including licensing and taking enforcement action against pest control operators and providing information to licensees, school districts, and the public. The Legislature modified this provision by adding language to create a Structural Pest Control Service within TDA, require TDA to establish a consumer and industry telephone hotline, and require TDA to administer a mandatory continuing education program for licensees.

The bill also creates an advisory committee, with members appointed by the Agriculture Commissioner, to advise TDA on structural pest control issues. The Legislature modified this provision slightly to establish the advisory committee as a nine-member body with specific representation, including experts in structural pest control, the public, consumers, representatives of higher education, and the Department of State Health Services.

2. Allow the Department of Agriculture to determine its inspection frequency based on an assessment of risk.

House Bill 2458 requires TDA to conduct its inspection activities according to risk, instead of the current requirement to inspect all businesses every two years. The agency must inspect all businesses in their first year of operation and at least once every four years thereafter. However, the agency can shorten the inspection interval for any or all businesses as it determines necessary, especially for businesses with compliance problems. Further, the agency must inspect all school districts for compliance with Integrated Pest Management requirements at least every five years, and more frequently as it deems necessary.

3. Require TDA to develop a formal process for licensing exam development and revision.

House Bill 2458 requires TDA to create a written policy governing the exam process. The policy must prescribe procedures to improve the design and construction of licensing exams, the content of exams, the procedures in place to administer exams, and the process for evaluating exams that are in use.

4. Improve the Integrated Pest Management Program to provide more clear and consistent guidance to schools.

House Bill 2458 clarifies TDA's responsibility to identify which pesticides are suitable for use in schools and how those pesticides are to be used. The bill removes the statutory requirement for schools to restrict entry for 12 hours following all pesticide applications, and instead requires the

agency to establish guidelines appropriate for each type of pesticide in rule. The bill also removes the current requirement for the agency to list the specific pesticides that may be used, and instead requires TDA to adopt categories of pesticides with clear, easier-to-follow guidelines as to their use.

The bill requires TDA to develop clear regulations that correspond to each category of pesticide that include:

- ◆ the physical distance required between application sites and students at the time of application;
- ◆ record keeping and pesticide approval requirements;
- ◆ re-entry requirements; and
- ◆ posting regulations for indoor and outdoor pesticide use.

The bill requires school districts to inform TDA of the name, address, phone number, and email address of their Integrated Pest Management Coordinators, who are responsible for overseeing pest control on school property. Further, school districts have to inform the agency within 90 days when a new coordinator is appointed. House Bill 2458 also requires these school coordinators to complete six hours of continuing education every three years to keep them up-to-date on program requirements and changes in pest control practices.

5. Conform key elements of TDA's licensing and regulatory functions to commonly applied licensing practices.

House Bill 2458 includes eight provisions that bring the Structural Pest Control Act in line with standard licensing practices, consisting of the following.

- ◆ Requires TDA to clearly outline its enforcement process and make this information and information in complaint files accessible to licensees.
- ◆ Authorizes agency staff to administratively dismiss complaints and report these actions to the Commissioner of Agriculture.
- ◆ Authorizes the Commissioner of Agriculture to temporarily suspend a license.
- ◆ Authorizes TDA to issue cease-and-desist orders to stop the unlicensed practice of structural pest control.
- ◆ Grants TDA authority to immediately stop the use of banned pesticides.
- ◆ Requires TDA to make information on enforcement actions available to the public on the agency's website and in other appropriate publications.
- ◆ Eliminates licensing and administrative fee caps and authorizes the Commissioner of Agriculture to set fees in rule.
- ◆ Requires TDA to base delinquent license renewal fees on the standard renewal fee.

6. Allow beekeepers to remove bees from structures without a pest control license, as long as they do not use pesticides.

House Bill 2458 clarifies that the Structural Pest Control Act does not require beekeepers to obtain a pest control operator license to remove bees from structures. Existing statutory language provides that beekeepers may not use pesticides or electrical devices other than conventional bee smokers when removing bees from structures.

Fiscal Implication Summary

House Bill 2458 will not have a net fiscal impact to the State, but may have a cost to school districts. Abolishing the Structural Pest Control Board and transferring its functions to TDA will result in savings from reduced administrative costs and staff positions by taking advantage of the existing administrative structure of TDA. However, TDA will reinvest those savings into improving structural pest control regulation, such as purchasing vehicles and equipment for field inspectors and integrating licensing and enforcement data into the agency's information management systems.

Requiring Integrated Pest Management Coordinators to complete six hours of continuing education every three years may have a fiscal impact to the school districts that employ the coordinators. Each school district will have to cover the cost of the continuing education. The cost of this provision to individual school districts depends on the cost of continuing education opportunities and whether travel is necessary to attend training.