
SENATE BILL 5227

State of Washington

58th Legislature

2003 Regular Session

By Senators Swecker and Rasmussen; by request of Department of Agriculture

Read first time 01/20/2003. Referred to Committee on Agriculture.

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 wood destroying
30 organisms, their damage, or conditions conducive to their infestation.

31 ~~((41))~~ (43) "Unreasonable adverse effects on the environment"
32 means any unreasonable risk to people or the environment taking into
33 account the economic, social, and environmental costs and benefits of
34 the use of any pesticide, or as otherwise determined by the director.

35 ~~((42))~~ (44) "Weed" means any plant which grows where not wanted.

36 ~~((43))~~ (45) "Wood destroying organism" means insects or fungi
37 that consume, excavate, develop in, or otherwise modify the integrity
38 of wood or wood products. Wood destroying organism includes, but is

1 not limited to, carpenter ants, moisture ants, subterranean termites,
2 dampwood termites, beetles in the family Anobiidae, and wood decay
3 fungi (wood rot).

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

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

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

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

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

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

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

32 (d) The collection and examination of samples of pesticides or
33 devices;

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

36 (f) Restricting or prohibiting the use of certain types of
37 containers or packages for specific pesticides. These restrictions may

1 apply to type of construction, strength, and/or size to alleviate
2 danger of spillage, breakage, misuse, or any other hazard to the
3 public. The director shall be guided by federal regulations concerning
4 pesticide containers;

5 (g) Procedures in making of pesticide recommendations;

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

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

21 (j) Regulating the labeling of devices;

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

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

30 (m) Fixing and collecting examination fees and fees for
31 recertification course sponsorship; and

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

34 (3) For the purpose of uniformity and to avoid confusion
35 endangering the public health and welfare the director may adopt rules
36 in conformity with the primary pesticide standards, particularly as to
37 labeling, established by the United States environmental protection
38 agency or any other federal agency.

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

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

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

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

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

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

28 (e) Any pesticide which is adulterated or misbranded, or any device
29 which is misbranded;

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

33 (2) It shall be unlawful:

34 (a) To sell or deliver any pesticide to any person who is required
35 by law or rules promulgated under such law to be certified, licensed,
36 or have a permit to use or purchase the pesticide unless such person or
37 the person's agent, to whom sale or delivery is made, has a valid
38 certification, license, or permit to use or purchase the kind and

1 quantity of such pesticide sold or delivered: PROVIDED, That, subject
2 to conditions established by the director, such permit may be obtained
3 immediately prior to sale or delivery from any person designated by the
4 director;

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

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

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

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

26 (f) For any person to make false, misleading, or erroneous
27 statements or reports in connection with any pesticide complaint or
28 investigation;

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

33 (h) For any structural pest inspection business to operate without
34 having first obtained the structural pest inspector company license
35 from the department.

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

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

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

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

31 NEW SECTION. Sec. 5. A new section is added to chapter 15.58 RCW
32 to read as follows:

33 (1) Except as provided in subsection (2) of this section, no
34 individual may perform services as a structural pest inspector or
35 advertise that they perform services of a structural pest inspector
36 without obtaining a structural pest inspector license from the
37 director. The license expires annually on a date set by rule by the

1 director. Application for a license must be on a form prescribed by
2 the director and must be accompanied by a fee set by rule by the
3 director.

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

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

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

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

24 The director shall require each applicant for a structural pest
25 inspector license to demonstrate to the director the applicant's
26 knowledge of applicable laws and regulations; structural pest
27 identification and damage; and conditions conducive to the development
28 of wood destroying organisms by satisfactorily passing a written
29 examination for the classifications for which the applicant has applied
30 prior to issuing the license.

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

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

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

5 (a) Individuals licensed under this chapter may qualify for
6 continued licensure through accumulation of recertification credits.
7 Individuals licensed under this chapter shall accumulate a minimum of
8 forty department-approved credits every five years with no more than
9 fifteen credits allowed per year.

10 (b) Individuals licensed under this chapter may qualify for
11 continued licensure through meeting the examination requirements
12 necessary to become licensed in those areas in which the licensee
13 operates.

14 (3) At the termination of a licensee's five-year recertification
15 period, the director may waive the recertification requirements if the
16 licensee can demonstrate that he or she is meeting comparable
17 recertification standards through another state or jurisdiction or
18 through a federal environmental protection agency-approved government
19 agency plan.

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

22 It is unlawful for any business that employs one or more structural
23 pest inspectors as defined in RCW 15.58.030 to conduct complete wood
24 destroying organism inspections without having obtained a company
25 license from the director. Application for a structural pest
26 inspection company license must be on a form prescribed by the
27 director. The application must include the following information:

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

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

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

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

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

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

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

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

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

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

15 ~~(3) Evidence of financial responsibility shall be supplied to the
16 department on a financial responsibility insurance certificate or
17 surety bond form.))~~ The director shall not issue a license to any
18 individual who intends to act as a structural pest inspector until the
19 business that employs the individual has furnished evidence of
20 financial responsibility. Licensed commercial applicators that have
21 met the requirements of RCW 17.21.160 and their licensed commercial
22 operator employees are exempt from this financial responsibility
23 requirement when performing specific wood destroying organism
24 inspections. Public employees licensed to perform structural pest
25 inspections are exempt from this licensing requirement when acting
26 within their official capacity.

27 (2) Evidence of financial responsibility consists of one of the
28 following:

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

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

33 (c) A surety bond and an errors and omissions insurance policy, the
34 amount and terms of which are consistent with the requirements of RCW
35 15.58.465(1)(c);

36 (d) An assigned account, the amount and terms of which are
37 consistent with the requirements of RCW 15.58.465(1)(d).

1 (3) Evidence of financial responsibility must be supplied to the
2 department on a financial responsibility insurance certificate, surety
3 bond form, or assigned account form.

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

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

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

13 ~~(b) The director shall be notified ten days before any reduction of~~
14 ~~insurance coverage at the request of the applicant or cancellation of~~
15 ~~the surety bond or insurance by the surety or insurer and by the~~
16 ~~insured.~~

17 ~~(c) The total and aggregate of the surety and insurer for all~~
18 ~~claims is limited to the face of the surety bond or insurance policy.~~
19 ~~The director may accept a surety bond or insurance policy in the proper~~
20 ~~sum that has a deductible clause in an amount not exceeding five~~
21 ~~thousand dollars for the total amount of surety bond or insurance~~
22 ~~required by this section. If the applicant has not satisfied the~~
23 ~~requirement of the deductible amount in any prior legal claim the~~
24 ~~deductible clause shall not be accepted by the director unless the~~
25 ~~applicant furnishes the director with a surety bond or insurance policy~~
26 ~~which shall satisfy the amount of the deductible as to all claims that~~
27 ~~may arise.~~

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

29 ~~(3) Insurance policies shall have a minimum three year occurrence~~
30 ~~clause.)) The following requirements apply to the forms of evidence of~~
31 ~~financial responsibility required for structural pest inspectors under~~
32 ~~RCW 15.58.460.~~

33 (a) **Errors and Omissions Insurance.** The amount of the errors and
34 omissions insurance policy required by RCW 15.58.460(2)(a) shall not be
35 less than twenty-five thousand dollars. The insurance policy shall be
36 maintained at not less than the required sum at all times during the
37 licensed period. The insurance policy shall provide coverage for

1 errors and omissions in an inspection conducted during the term of the
2 policy. However, the policy may limit the insurer's liability on the
3 policy in effect at the time of the inspection to two years from the
4 date of the inspection.

5 (b) **Surety Bond.** The amount of the surety bond required by RCW
6 15.58.460(2)(b) shall not be less than twenty-five thousand dollars.
7 The surety bond shall be maintained at not less than the required sum
8 at all times during the licensed period. Any person having a claim
9 against the structural pest inspector for legal damages as a result of
10 the actions of the structural pest inspector may bring suit upon the
11 bond in the court of the county in which the inspection took place or
12 of the county in which jurisdiction of the structural pest inspector
13 may be had. The surety issuing the bond shall be named as a party to
14 any suit upon the bond. The suit upon the bond must be commenced
15 within two years of the date of the inspection.

16 (c) **Surety Bond and Errors and Omissions Insurance.** The amount of
17 the surety bond required by RCW 15.58.460(2)(c) shall not be less than
18 twelve thousand five hundred dollars. Except as to the amount of the
19 bond, the terms of the bond shall be identical to those set forth in
20 (b) of this subsection. The amount of the errors and omissions
21 insurance policy required by RCW 15.58.460(2)(c) shall not be less than
22 twenty-five thousand dollars. The insurance policy shall be maintained
23 at not less than the required sum at all times during the licensed
24 period. The insurance policy shall provide coverage for errors and
25 omissions in an inspection conducted during the term of the policy.

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

34 (i) The assigned account agreement filed with the director as
35 evidence of financial responsibility shall be canceled at the
36 expiration of two years after the inspector's license has expired or
37 been revoked, or at the expiration of two years after the inspector has
38 furnished another form of evidence of financial responsibility required

1 by RCW 15.58.460, unless legal action has been instituted against the
2 inspector prior to the expiration of the two-year period and the
3 director has been provided written notice of the same by the claimant.
4 In such a case the director shall not cancel the assigned account
5 agreement until the director either receives a copy of the order
6 dismissing the action by registered or certified mail, or has received
7 a copy of the unsatisfied judgment and has complied with the
8 requirements of (d)(ii) of this subsection.

9 (ii) Any person having an unsatisfied final judgment against the
10 inspector for legal damages awarded based on errors and omissions in
11 the conduct of an inspection may execute upon the funds in the assigned
12 account by serving a certified copy of the unsatisfied final judgment
13 by registered or certified mail upon the department within one year of
14 the date of entry of such judgment. Upon the receipt of service of
15 such certified copy the department shall direct the financial
16 institution to pay from the assigned account, through the registry of
17 the court which rendered judgment, towards the amount of the
18 unsatisfied judgment. The priority of payment from the assigned
19 account shall be the order of receipt of the final judgment by the
20 department.

21 (2) Nothing in subsection (1) of this section that limits the time
22 period in which a suit must be commenced on a surety bond or in which
23 a claim must be made on a policy effects the statute of limitations
24 applicable to any claim any person may have against the structural pest
25 inspector.

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

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

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

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

7 Whenever a structural pest inspector's (~~surety bond or insurance~~
8 ~~policy~~) form of evidence of financial responsibility is reduced below
9 the requirements of RCW 15.58.465, or whenever the person has failed to
10 provide evidence of financial responsibility as required by RCW
11 15.58.460 by the expiration date of (~~the~~) any previous (~~surety bond~~
12 ~~or insurance policy~~) form of evidence of financial responsibility, the
13 director shall immediately suspend the person's (~~structural pest~~
14 ~~inspector~~) license to perform structural pest inspections until the
15 person's surety bond or insurance policy again meets the requirements
16 of RCW 15.58.465.

17 NEW SECTION. **Sec. 12.** This act is necessary for the immediate
18 preservation of the public peace, health, or safety, or support of the
19 state government and its existing public institutions, and takes effect
20 July 1, 2003.

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