

ACT 126

H.B. NO. 1908-86

A Bill for an Act Relating to Pest Control.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

“§26H-4 Repeal dates. [[(a)]] The following chapters are hereby repealed effective December 31, 1986:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)
- (3) Chapter 440 (Boxing Commission)
- [(4) Chapter 460J (Pest Control Board)
- (5)] (4) Chapter 438 (Board of Barbers)
- [(6)] (5) Chapter 439 (Board of Cosmetology)

[[(b)]] The following chapters are hereby repealed effective December 31, 1987:

- (1) Chapter 458 (Board of Dispensing Opticians)
- (2) Chapter 459 (Board of Examiners in Optometry)
- (3) Chapter 452 (Board of Massage)
- (4) Chapter 471 (Board of Veterinary Examiners)
- (5) Chapter 441 (Cemeteries and Mortuaries)
- (6) Chapter 463 (Board of Detectives and Guards)
- (7) Chapter 455 (Board of Examiners in Naturopathy)

[[(c)]] The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Psychology)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 359L (Factory Built Housing Advisory Board)
- (4) Chapter 468B (Solar Energy Device Dealers)
- (5) Chapter 468K (Travel Agencies)
- (6) Chapter 373 (Commercial Employment Agencies)
- (7) Chapter 442 (Board of Chiropractic Examiners)
- (8) Chapter 448 (Board of Dental Examiners)
- (9) Chapter 436E (Board of Acupuncture)

[[(d)]] The following chapters are hereby repealed effective December 31, 1989:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, and Surveyors)
- (4) Chapter 466 (Board of Public Accountancy)
- (5) Chapter 467 (Real Estate Commission)

[[](e)[]] The following chapters are hereby repealed effective December 31, 1990:

- (1) Chapter 447 (Dental Hygienists)
- (2) Chapter 453 (Board of Medical Examiners)
- (3) Chapter 457 (Board of Nursing)
- (4) Chapter 462A (Pilotage)
- (5) Chapter 460J (Pest Control Board)

[[](f)[]] The following [[]chapters are[]] hereby repealed effective December 31, 1991:

- [[](1)[]] Chapter 448H (Elevator Mechanics Licensing Board)
- [[](2)[]] Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- [[](3)[]] Chapter 457B (Board of Examiners of Nursing Home Administrators)
- [[](4)[]] Chapter 460 (Board of Osteopathic Examiners)
- [[](5)[]] Chapter 461 (Board of Pharmacy)
- [[](6)[]] Chapter 461J (Board of Physical Therapy)
- [[](7)[]] Chapter 463E (Podiatry)."

SECTION 2. Section 460J-3, Hawaii Revised Statutes, is amended to read as follows:

“[[]§460J-3[]] **Powers and duties of board.** In addition to any other duties and powers granted by this chapter the board shall:

- (1) Grant licenses to operators pursuant to this chapter;
- (2) [Make,] Adopt, amend, or repeal [such] rules [and regulations] as it may deem necessary to effectuate this chapter and carry out the purpose thereof which purpose is the protection of the general public. All [such] rules [and regulations] shall be adopted pursuant to chapter 91. [Such] The rules [and regulations may] shall:
 - (A) Forbid acts or practices deemed by the board to be detrimental to the accomplishment of the purpose of this chapter;
 - (B) Require operators to make reports to the board containing [such] items of information [as] that will [better] enable the board to [enforce] improve the enforcement of this chapter and its rules [and regulations or more] to fully [to] effectuate the purposes of this chapter;
 - (C) Require operators to furnish reports to owners containing [such] matters of information as the board deems necessary to promote the purpose of this chapter;
 - (D) Require liability insurance verification for license renewals;
 - (E) Provide for the development of an enforcement information reporting system;
- (3) Enforce this chapter and rules [and regulations] adopted pursuant thereto;
- (4) Suspend or revoke any license for any cause prescribed by this chapter, or for any violation of the rules [and regulations], and refuse to grant any license for any cause which would be grounds for revocation or suspension of a license;
- (5) Direct the executive secretary to publish and distribute pamphlets and circulars containing [such] information as it deems proper to further the accomplishment of the purpose of this chapter.”

SECTION 3. Section 460J-8, Hawaii Revised Statutes, is amended to read as follows:

“§460J-8 No license issued when. No license shall be issued to:

- (1) Any person unless he has filed an application therefor;
- [(2)] Any person who does not possess a good reputation for honesty, truthfulness, financial integrity, and fair dealing;
- (3) [(2)] Any partnership or joint venture unless one member of the partnership or joint venture who actively participates in the pest control business thereof holds an appropriate license;
- [(4)] (3) Any corporation unless the pest control business thereof is under the direct management of an officer who holds an appropriate license;
- [(5)] [(4)] Any individual unless he is of the age of eighteen years or more;
- [(6)] [(5)] Any person unless he submits satisfactory proof to the board that he has obtained workers' compensation insurance or has been authorized to act as a self-insurer as required by chapter 386.”

SECTION 4. Section 460J-9, Hawaii Revised Statutes, is amended to read as follows:

“§460J-9 Application; fees. (a) Every applicant for a license under this chapter shall file an application on forms prescribed or required by the board, and shall furnish any additional information bearing upon the issuance of the license as the board requires[.]; provided that the board shall not require any applicant to furnish a statement of the applicant's financial condition. Every application shall be sworn to before an officer authorized to administer oaths and shall be accompanied by the application and examination fees. In the case of a copartnership, joint venture, or corporation, any licensed member or officer therefor may sign the application and verify the same on behalf of the applicant and every application shall be accompanied by the application and license fees. In the case of a proprietorship, every application shall be accompanied by the application and license fees.

[(b)] Every application, in the case of an individual, shall be accompanied by sworn certificates of not less than two persons who have known the applicant for a period of not less than six months, certifying that the applicant bears a good reputation for honesty, truthfulness, and fair dealing.

(c) [(b)] Every application for a license by an individual who passed the examination shall be accompanied by a license fee.”

SECTION 5. Section 460J-18, Hawaii Revised Statutes, is amended to read as follows:

“[[]§460J-18[]] [Accusations against licensees, when to be filed.] Lapse of license not a bar to jurisdiction. [All accusations against licensees shall be filed within two years after the act or omission alleged as the ground for revocation or suspension of a license, except that with respect to accusations alleging a violation of section 460J-15(4), the accusation may be filed within two years after the discovery by the board of the alleged facts constituting the fraud or misrepresentation prohibited by section 460J-15(4).] The lapsing or suspension of a license by operation of law or by order of the board or a court of law or the voluntary suspension of a license by a licensee shall not deprive the board of jurisdiction to proceed with any investigation of or action or proceeding against the licensee, or to render a decision suspending or revoking the license.”

SECTION 6. Section 460J-27, Hawaii Revised Statutes, is amended to read as follows:

“~~[]§460J-27[] [Violation of chapter; penalty.] Penalties for unlicensed acts. [Any person who violates this chapter, or who conspires with another person to violate this chapter shall be fined not less than \$500 or imprisoned for not more than six months, or both.] Any person or business organization that violates the provisions of section 460J-6 shall not be fined less than \$5,000.~~”

SECTION 7. Chapter 460J, Hawaii Revised Statutes, is amended by adding new sections to be appropriately designated and to read as follows:

“**§460J- Administrative penalties.** Any person who violates this chapter or the rules adopted pursuant thereto may be fined not more than \$2,500 for each violation.

§460J- Penal sanctions. Any person who violates this chapter, or who conspires with another to violate this chapter, shall be fined not more than \$2,500.

§460J- Remedies or penalties cumulative. Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State.

§460J- Appeal to circuit court. An applicant who has been refused a license and every licensee whose license has been suspended, revoked, or not renewed may appeal the board’s decision to the circuit court of the circuit in which the applicant or licensee resides in the manner provided in chapter 91.”

SECTION 8. The Board of Pest Control shall report to the legislature on its progress in implementing the Auditors’ recommendations contained in the sunset evaluation report on pest control operators (Report No. 86-1) prior to the convening of the Regular Session of 1987.

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 10. This Act shall take effect upon its approval.

(Approved May 8, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.