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S.B. NO. 2895

A Bill for an Act Relating to Pest Control.

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

SECTION 1. Chapter 460J, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§460J- Requirements to maintain license. (a) A licensed pest control operator shall have and maintain in full force and effect the following:

- (1) Workers' compensation insurance, unless the licensee is authorized to act as a self-insurer under chapter 386 or is excluded from the requirements of chapter 386; and
- (2) Liability insurance from an insurance company or agency for comprehensive personal injury and property damage liability in an amount prescribed by the board through its rules.

(b) Failure, refusal, or neglect of any licensed pest control operator to maintain in full force and effect the required workers' compensation insurance or liability insurance shall cause the automatic forfeiture of the license of the pest

control operator effective as of the date of expiration or cancellation of the pest control operator's workers' compensation insurance or liability insurance.

(c) The pest control operator shall immediately notify the board of termination or cancellation of any insurance required under the chapter. Failure to notify the board shall subject the licensee to discipline pursuant to section 460J-15.

(d) The board shall not restore the forfeited license until satisfactory proof of continuous or replacement insurance coverage is submitted to the board as required by this section.

(e) Failure to submit proof of continuous or replacement coverage required by subsection (d) within sixty days after the date of forfeiture shall result in the forfeiture of all fees and shall require the person to apply as a new applicant.

(f) A licensee, within sixty days after receipt of the notification of the forfeiture, may request an administrative hearing to review the forfeiture pursuant to chapter 91. A request for an administrative hearing shall not stay or affect the provisions of subsections (d) and (e)."

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 powers and duties authorized by law, the board shall:

- (1) Grant licenses to operators pursuant to this chapter;
- (2) Adopt, amend, or repeal rules 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 rules shall be adopted pursuant to chapter 91. The rules 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 items of information that will enable the board to improve the enforcement of this chapter and its rules to fully effectuate the purposes of this chapter;
 - (C) Require operators to furnish reports to owners containing matters of information as the board deems necessary to promote the purpose of this chapter;
 - (D) Require liability and workers' compensation insurance verification for license renewals; and
 - (E) Provide for the development of an enforcement information reporting system;
- (3) Enforce this chapter and rules adopted pursuant thereto;
- (4) Suspend or revoke any license for any cause prescribed by this chapter, or for any violation of the rules, and refuse to grant any license for any cause that would be grounds for revocation or suspension of a license; and
- (5) Direct the executive secretary to publish and distribute pamphlets and circulars containing information as it deems proper to further the accomplishment of the purpose of this chapter."

SECTION 3. Section 460J-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In addition to any other actions authorized by law, the board may revoke, suspend, or refuse to renew any license issued hereunder, for any cause authorized by law, including but not limited to the following:

- (1) Departure from, or disregard of, plans or specifications in the performance of pest control work in any material respect, without consent of the owner or the owner's authorized representative;
- (2) Violation of any law of the State or any county relating to building, pesticide use, safety, or labor, including violation of any applicable law or rule of the departments of agriculture, health, or labor and industrial relations;
- (3) Misrepresentation of a material fact by the applicant in obtaining a license;
- (4) Failure on the part of a licensee to complete any operation or construction repairs for the price stated in the contract for the operation or construction repairs or in any modification of the contract;
- (5) Failure to comply with this chapter, or any rule adopted by the board, or the furnishing of a report of inspection without the making of a bona fide inspection of the premises for termites;
- (6) The commission of any grossly negligent or fraudulent act by the licensee as an operator;
- (7) The negligent handling or use of any poisonous exterminating agent without regard to public safety;
- (8) Fraud or misrepresentation, after inspection, by any licensee engaged in pest control work relating to any infestation or infection of termites found in property or structures, or respecting any conditions of the structure that would ordinarily subject structures to attack by termites whether or not a report was made pursuant to sections 460J-19 and 460J-20;
- (9) Failure of an operator to make and keep all inspection reports, contracts, documents, and records, other than financial records, for a period of not less than two years after completion of any work or operation for the control of termites;
- (10) Wilful failure to pay when due a debt incurred for services or materials rendered or purchased in connection with the operator's operations as an operator when the operator has the ability to pay or when the operator has received sufficient funds therefor as payment for the particular operation for which the services or materials were rendered or purchased;
- (11) The false denial of any debt due or the validity of the claim therefor with intent to secure for the licensee, the licensee's employer, or other person, any discount of the debt or with intent to hinder, delay, or defraud the person to whom the debt is due;
- (12) Failure to secure or maintain liability insurance or workers' compensation insurance when not authorized to act as a self-insurer under chapter 386, or when not excluded from the requirements of chapter 386;
- (13) Knowingly entering into a contract with an unlicensed operator involving work or activity for the performance of which licensing is required under this chapter; or
- (14) Conviction of any offense described in chapter 708 committed while in the performance of the person's regular occupation as a pest control operator."

SECTION 4. Section 460J-25, Hawaii Revised Statutes, is amended to read as follows:

"§460J-25 Insurance. No person shall engage in the business of pest control unless the person has filed with the ~~[director of commerce and consumer~~

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~~affairs]~~ board a general liability and workers' compensation insurance policy approved by the [~~director]~~ board in an amount prescribed by the board through its rules; provided that no employee of any company need have such policy in effect with respect to work covered by a policy of the company by which the employee is employed. This section shall not apply to vault fumigation.’’

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved July 6, 2004.)

Note

1. Edited pursuant to HRS §23G-16.5.