

Amendment No. 24

Assembly Amendment to Assembly Bill No. 34	(BDR 49-272)
<b>Proposed by:</b> Assembly Committee on Natural Resources	
<b>Amends:</b> Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will REMOVE the 2/3s majority vote requirement from A.B. 34.
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ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

ALA/WLK



Date: 4/11/2021

A.B. No. 34—Revises provisions governing the control of pests, noxious weeds and pesticides. (BDR 49-272)





ASSEMBLY BILL NO. 34—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF THE STATE DEPARTMENT OF AGRICULTURE)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Natural Resources

SUMMARY—Revises provisions governing the control of pests, noxious weeds and pesticides. (BDR 49-272)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to pest control; defining the term “control” as it applies to the control of noxious weeds by the owner or operator of land; authorizing the Director of the State Department of Agriculture to adopt regulations that establish and administer a program to certify certain agricultural products as being free from propagative parts from which noxious weeds may grow; authorizing certain notices to be delivered by electronic mail; exempting certain businesses that sell nursery stock only to the public exclusively via the Internet from certain licensure requirements; revising the prohibition against engaging in certain activities involving pest control without a license; revising provisions governing the certification of persons to apply or supervise the application of restricted-use pesticides; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

During the 2015 Legislative Session, Assembly Bill No. 77 replaced references to the cutting, eradication, removal or destruction of weeds with the term “control.” (Chapter 526, Statutes of Nevada 2015, at page 3588) **Section ~~1.5~~ 1.5** of this bill defines “control” to mean the cutting, destruction or eradication of established noxious weed populations to prevent: (1) the spread, maturation and dispersal of any propagative part of the noxious weed; and (2) the reproduction and spread of such noxious weeds.

Existing law authorizes the Director of the State Department of Agriculture to, by regulation, establish and administer a program to certify agricultural products as being free from noxious weeds to: (1) support the control and prevention of the spread of noxious weeds in this State; and (2) allow businesses in this State to market such agricultural products as being in compliance with any applicable federal law or regulation or any other requirement specified by the Director. (NRS 555.010) **Sections ~~1.5 and 2~~ 1.5 and 2** of this bill expand the program by authorizing the Director to ~~1.5 and 2~~ adopt such regulations to certify agricultural products as being free from any propagative parts from which a noxious weed may grow. ~~1.5 and (2) establish and collect reasonable fees for the program.~~ **Section 2** additionally expands the purposes of the program to include allowing businesses in this State to market agricultural

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17 products as being in compliance with the guidelines set forth by the North American Invasive  
18 Species Management Association, in addition to applicable federal law or regulation or any  
19 other requirement specified by the Director.

20 Existing law authorizes the Department to provide a written notice of its finding that an  
21 area is infested with certain pests, noxious weeds or plant diseases to the owner or occupant of  
22 the area. (NRS 555.100) Existing law also authorizes the State Quarantine Officer to serve  
23 notice on the owner or occupant of land where noxious weeds are found. (NRS 555.160)  
24 **Sections 3 and 4** of this bill authorize such notices to be served by electronic mail.

25 Existing law requires a person who is a dealer of nursery stock to obtain a license from  
26 the Director to engage in such business. Existing law exempts a business that is licensed by  
27 another state that sells nursery stock only to the public exclusively by catalog from the  
28 licensing requirement. (NRS 555.236) **Section 5** of this bill expands this exemption to a  
29 business that is licensed by another state that sells nursery stock only to the public exclusively  
30 via the Internet.

31 Existing law prohibits a natural person from engaging in pest control or serving as an  
32 agent, operator, pilot, primary principal, location principal or principal for pest control within  
33 this State at any time without a license as an applicator issued by the Director. (NRS 555.280)  
34 **Section 15** of this bill applies this prohibition only to such activities engaged in for hire or for  
35 profit without a license. **Section 15** additionally prohibits a natural person or business entity  
36 from operating as a pest control business for hire or for profit within this State at any time  
37 without a business license issued by the Director.

38 **Section 25** of this bill eliminates provisions of existing law providing for the certification  
39 of a governmental agency to engage in pest control and the licensure of an employee of such  
40 an agency to engage in pest control in the course and scope of his or her employment. (NRS  
41 555.2642, 555.2643, 555.2688, 555.2771-555.2775) **Sections 6-8, 14 and 16-19** of this bill  
42 instead provide for the certification of employees of a government agency who engage in pest  
43 control as non-private applicators in the same manner as other applicators of pesticides are  
44 certified.

45 **Sections 1, 9, 11, ~~13~~, 20, 22 and 23** of this bill replace references to “certified  
46 applicators,” who are authorized to apply or supervise the application of restricted-use  
47 pesticides, with references to “**authorized** commercial applicators,” “**certified** non-private  
48 applicators,” and “private applicators,” which are the categories of persons authorized to apply  
49 or supervise the application of such pesticides. **Section 5.5 of this bill makes a conforming  
50 change to indicate the proper placement of section 1 of this bill in the Nevada Revised  
51 Statutes.**

52 **Section 12 of this bill provides that a restricted-use pesticide is a certain type of  
53 pesticide that has been classified for restricted use in accordance with the Federal  
54 Insecticide, Fungicide, and Rodenticide Act.**

55 **Section 18 of this bill authorizes the Director to investigate any loss or damage  
56 resulting from the application of any pesticide by a commercial applicator or authorized  
57 commercial applicator.**

58 **Section 19** of this bill authorizes the Director to take disciplinary action against a person  
59 licensed to engage in pest control who fails to provide adequate instruction or supervision to  
60 an unlicensed applicator working under the licensee’s supervision.

61 **Section 20** of this bill provides that a person licensed as a commercial applicator and  
62 authorized to engage in pest control is authorized to use or supervise the use of restricted-use  
63 pesticides without obtaining a certificate if the licensee complies with certain requirements.

64 **Section 21** of this bill requires an applicant for a certificate to use a restricted-use  
65 pesticide to demonstrate that he or she satisfies the standards set forth in applicable federal  
66 regulations if the applicant is applying to be certified as a non-private applicator or private  
67 applicator.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1        **Section 1. Chapter 555 of NRS is hereby amended by adding thereto a**  
2 **new section to read as follows:**

3        **“Authorized commercial applicator” means an applicator who for hire or for**  
4 **profit is licensed to apply or supervise the application of any general-use pesticide**  
5 **and who is authorized to apply or supervise the application of any restricted-use**  
6 **pesticide pursuant to NRS 555.351.**

7        ~~Section 1.1~~ **Sec. 1.5.** NRS 555.005 is hereby amended to read as follows:

8        555.005 As used in this chapter, unless the context requires otherwise:

9        1. ***“Control” means to cut, destroy or eradicate established noxious weed***  
10 ***populations in order to prevent:***

11        (a) ***The spread, maturation and dispersal of any propagative part of the***  
12 ***noxious weed; and***

13        (b) ***The reproduction and spread of the noxious weed.***

14        2. “Department” means the State Department of Agriculture.

15        ~~2.~~ 3. “Director” means the Director of the Department.

16        ~~3.~~ 4. “Noxious weed” means any species of plant which is, or is likely to  
17 be, a public nuisance, detrimental or destructive and difficult to control.

18        ~~4.~~ 5. “Pest” means any form of animal or vegetable life detrimental to the  
19 crops, horticulture, livestock, public health, wildlife, quality of water and beneficial  
20 uses of land in this State, including, without limitation, any insect, snail, nematode,  
21 fungus, virus, bacterium, microorganism, mycoplasma, weed, parasitic plant or any  
22 other plant that is normally considered to be a pest of cultivated plants, uncultivated  
23 plants, agricultural commodities, horticultural products or nursery stock, or that the  
24 Director declares to be a pest.

25        ~~5.~~ 6. ***“Propagative part” means any seed, cutting or other plant part from***  
26 ***which a noxious weed can grow.***

27        7. “Vertebrate pest” means any animal of the subphylum Vertebrata, except  
28 predatory animals, which is normally considered to be a pest, including a gopher,  
29 ground squirrel, rat, mouse, starling, blackbird and any other animal which the  
30 Director may declare to be a pest.

31        **Sec. 2.** NRS 555.010 is hereby amended to read as follows:

32        555.010 Within the limits of any appropriation made by law:

33        1. The Director may:

34        (a) Investigate the prevalence of; and

35        (b) Take the necessary action to control,

36        ↪ vertebrate and invertebrate pests of plants and animals, plant diseases,  
37 physiological plant disorders and noxious weeds for the protection of the crops,  
38 livestock, public health, wildlife, water quality and beneficial uses of land in the  
39 State of Nevada.

40        2. The Director may, by regulation, establish and administer a program to  
41 certify agricultural products as being free from noxious weeds ***and any propagative***  
42 ***parts*** to support the control and prevention of the spread of noxious weeds in this  
43 State and to allow businesses in this State to market those products in compliance  
44 with ***the guidelines set forth by the North American Invasive Species***  
45 ***Management Association***, any applicable federal law or regulation or any other  
46 requirement specified by the Director. ~~[(The Director may establish and collect~~  
47 ~~reasonable fees for such a program.)]~~

1       **Sec. 3.** NRS 555.100 is hereby amended to read as follows:

2       555.100 1. The Department shall, if necessary or if a complaint is made to  
3 the Department, cause an inspection to be conducted of any premises, land, means  
4 of conveyance or article of any person in this State if it is found to be infested with  
5 any pest, noxious weed or plant disease that is injurious to:

- 6       (a) The public health or quality of any water in this State; or  
7       (b) Any wildlife, beneficial use of land or agriculture in this State.

8       2. The Department may provide a written notice of its findings to the owner  
9 or occupant of the premises, land, means of conveyance or article and require the  
10 owner or occupant to control the pest, noxious weed or plant disease in the manner  
11 and within the period specified in the notice.

12       3. A notice issued pursuant to the provisions of subsection 2:

13       (a) May be served upon the owner or occupant by an officer or employee of the  
14 Department; and

15       (b) Must be served in writing, by certified mail , *by electronic mail* or  
16 personally, with receipt given therefor.

17       **Sec. 4.** NRS 555.160 is hereby amended to read as follows:

18       555.160 1. The State Quarantine Officer shall make or cause to be made a  
19 careful examination and investigation of the spread, development and growth of  
20 noxious weeds in this State. Upon the discovery of those weeds, the State  
21 Quarantine Officer shall ascertain the name of the owner or occupant of the land  
22 and the description of the land where the weeds are found. The State Quarantine  
23 Officer may serve notice in writing upon the owner or occupant of the land to  
24 control the weeds within such time and in such manner as designated and described  
25 in the notice. One such notice shall be deemed sufficient for the entire season of  
26 weed growth during that year.

27       2. Notices may be served upon the owner or occupant by an officer or  
28 employee of the Department, and must be served in writing, personally or by  
29 certified mail *or electronic mail*, with receipt given therefor.

30       **Sec. 5.** NRS 555.236 is hereby amended to read as follows:

31       555.236 1. Except as otherwise provided in this section, a person who  
32 engages in the commercial production, holding, distribution, collection or selling of  
33 nursery stock must obtain a license from the Director, except:

34       (a) Retail florists or other persons who sell potted, ornamental plants intended  
35 for indoor decorative purposes.

36       (b) A person not engaged in the nursery or landscaping business who raises  
37 nursery stock as a hobby in this State from which the person makes occasional  
38 sales, if the person does not advertise or solicit for the sale of that nursery stock.

39       (c) Persons engaged in agriculture and field-growing vegetable plants intended  
40 for sale for use in agricultural production.

41       (d) At the discretion of the Director, persons selling vegetable bulbs or flower  
42 bulbs, including, without limitation, onion sets, tulip bulbs and similar bulbs.

43       (e) A business licensed by another state that sells nursery stock only to:

44           (1) A licensed dealer of nursery stock in this State; or

45           (2) The public exclusively by catalog *or via the Internet*.

46       (f) A garden club or charitable nonprofit association conducting sales of  
47 nursery stock, provided that the garden club or nonprofit association has applied for  
48 and received a permit from the Director to conduct such sales. The Department  
49 shall not charge a fee for such a permit.

50       (g) A state or local governmental entity, including a conservation district. The  
51 Department may inspect any plant materials held, distributed, collected or sold by  
52 such an entity.

2. The Director may waive the requirements relating to licensing set forth in NRS 555.235 to 555.249, inclusive, for a person otherwise required to obtain a license pursuant to this section if the person only has occasional sales of nursery stock to the ultimate customer. To obtain a waiver pursuant to this subsection, the person must:

(a) Submit to the Department a completed application for a license to engage in the business of a dealer of nursery stock that includes sufficient information to demonstrate that the person qualifies for a waiver pursuant to this subsection; and

(b) Submit to the Director a notarized affidavit on a form provided by the Department attesting that all information furnished in the completed application is true.

➤ A completed application submitted to the Department pursuant to this section need not be accompanied by the fee required by NRS 555.238. A waiver issued pursuant to this subsection may be revoked at any time and must be renewed annually.

3. Persons, state agencies or political subdivisions exempt from the licensing requirements:

(a) Shall conduct their businesses in accordance with pest regulations and grades and standards for nursery stock as established by the Director.

(b) Shall register annually, on or before July 1, with the Department, the location, size and type of nursery stock being sold or produced.

4. As used in this section, "occasional sales" means sales of nursery stock in a gross annual amount that is less than \$1,000.

**Sec. 5.5. NRS 555.2605 is hereby amended to read as follows:**

555.2605 As used in NRS 555.2605 to 555.460, inclusive, and section 1 of this act, unless the context otherwise requires, the words and terms defined in NRS 555.261 to 555.2695, inclusive, and section 1 of this act have the meanings ascribed to them in those sections.

**Sec. 6. NRS 555.26155 is hereby amended to read as follows:**

555.26155 "Applicator" means a natural person , *including, without limitation, a natural person who is employed by a city, county, state or other governmental agency*, who ~~engages in pest control. The term does not include a government applicator.~~ *applies or supervises the application of any pesticide.*

**Sec. 7. NRS 555.2617 is hereby amended to read as follows:**

555.2617 "Certificate" means a certificate of competency issued by the Director to a ~~commercial applicator,~~ *non-private applicator* or private applicator authorizing the applicator to ~~make application of~~ *purchase, use* or ~~to~~ supervise the ~~application~~ *use* of a restricted-use pesticide.

**Sec. 8. NRS 555.2618 is hereby amended to read as follows:**

555.2618 ~~"Certified"~~ *"Non-private applicator"* means ~~any~~ :

*1. A natural person who is employed by a city, county, state or other governmental agency, including, without limitation, a conservation district or a weed control district, who ~~is certified and who applies~~ :*

*(a) Is licensed to apply or supervise the application of any general-use pesticide; or*

*(b) Is licensed to apply or ~~supervise~~ supervise the application of any general-use pesticide ~~for~~ and is certified to apply or supervise the application of any restricted-use pesticide; or*

*2. An applicator who is certified ~~by the Director as qualified to use or to supervise the use~~ and who ~~applies or supervises the application~~ of any restricted-use pesticide ~~and does not qualify as a private applicator under NRS 555.2681.~~*

1       **Sec. 9.** NRS 555.2619 is hereby amended to read as follows:

2       555.2619 “Commercial applicator” means ~~[a certified]~~ *an* applicator who  
3 ~~[applies or supervises]~~ *is licensed to apply or supervise* the application of any  
4 *general-use pesticide* ~~for any restricted-use pesticide] for hire or for profit.~~ ~~[and~~  
5 ~~does not qualify as a private applicator under NRS 555.2681.]~~

6       **Sec. 10.** NRS 555.2667 is hereby amended to read as follows:

7       555.2667 “Pest control” means ~~[conducting as a function of the agency, in the~~  
8 ~~case of a city, county, state or other governmental agency, or]~~ publicly holding  
9 oneself out as being in the business of detecting, preventing, controlling or  
10 exterminating pests or otherwise engaging in, advertising or soliciting for:

11       1. The use of pesticides or mechanical devices for the extermination, control  
12 or prevention of infestations of pests.

13       2. The inspection of households or other structures and the submission of  
14 reports of inspection, estimates or bids, written or oral, for the inspection,  
15 extermination, control or prevention of wood-destroying pests.

16       **Sec. 11.** NRS 555.2681 is hereby amended to read as follows:

17       555.2681 “Private applicator” means ~~[a certified]~~ *an* applicator who ~~[uses or~~  
18 ~~supervises the use]~~ *is certified to apply or supervise the application* of any  
19 restricted-use pesticide for purposes of producing any agricultural commodity on  
20 property owned or rented by the ~~[certified]~~ applicator or the ~~[certified]~~ applicator’s  
21 employer or on the property of the ~~[certified]~~ applicator’s neighbors if applied  
22 without compensation other than trading of personal services between producers of  
23 agricultural commodities.

24       **Sec. 12.** NRS 555.2683 is hereby amended to read as follows:

25       555.2683 “Restricted-use pesticide” means any pesticide, including any  
26 highly toxic pesticide, which:

27       1. The Director has found and determined, after a hearing, to be:

28       (a) Injurious to persons, pollinating insects, bees, animals, crops or land, other  
29 than pests or vegetation it is intended to prevent, destroy, control or mitigate; or

30       (b) Detrimental to:

31           (1) Vegetation, except weeds;

32           (2) Wildlife; or

33           (3) Public health and safety; or

34       2. Has been classified for restricted use ~~[by or under the supervision of a~~  
35 ~~certified]~~ ~~[commercial applicator, non-private applicator or private applicator]~~ in  
36 accordance with the Federal ~~[Environmental Pesticide Control]~~ *Insecticide,*  
37 *Fungicide, and Rodenticide* Act, 7 U.S.C. §§ 136 et seq.

38       **Sec. 13.** NRS 555.2687 is hereby amended to read as follows:

39       555.2687 “Supervision” of the application of a restricted-use pesticide by ~~[a~~  
40 ~~certified]~~ *an authorized commercial applicator, certified non-private applicator or*  
41 *private* applicator must be defined by regulation of the Director.

42       **Sec. 14.** NRS 555.273 is hereby amended to read as follows:

43       555.273 All state agencies, municipal corporations and public utilities or any  
44 other governmental agency ~~[and any government applicator is]~~ *are* subject to the  
45 provisions of NRS 555.2605 to 555.460, inclusive, and rules adopted thereunder  
46 concerning the application of restricted-use pesticides by any person.

47       **Sec. 15.** NRS 555.280 is hereby amended to read as follows:

48       555.280 *1.* A natural person, including, without limitation, any consultant,  
49 demonstrator, researcher or specialist, shall not engage *, for hire or for profit,*  
50 in pest control or serve as an agent, operator, pilot, primary principal, location  
51 principal or principal for that purpose within this State at any time without a license  
52 as an applicator issued by the Director.



1           **2. A natural person or business entity shall not operate, for hire or for**  
2 **profit, as a pest control business within this State at any time without a business**  
3 **license issued by the Director.**

4           **Sec. 16.** NRS 555.305 is hereby amended to read as follows:

5           555.305 1. The Director shall develop and implement a process by which a  
6 person with a criminal history may petition the Director to review the criminal  
7 history of the person to determine if the person's criminal history will disqualify the  
8 person from obtaining ~~fa license as a government applicator pursuant to NRS~~  
9 ~~555.2772 or~~ a business license or license as an applicator pursuant to NRS  
10 555.290.

11           2. Not later than 90 days after a petition is submitted to the Director pursuant  
12 to subsection 1, the Director shall inform the person of the determination of the  
13 Director of whether the person's criminal history will disqualify the person from  
14 obtaining a license. The Director is not bound by his or her determination of  
15 disqualification or qualification and may rescind such a determination at any time.

16           3. The Director may provide instructions to a person who receives a  
17 determination of disqualification to remedy the determination of disqualification. A  
18 person may resubmit a petition pursuant to subsection 1 not earlier than 6 months  
19 after receiving instructions pursuant to this subsection if the person remedies the  
20 determination of disqualification.

21           4. A person with a criminal history may petition the Director at any time,  
22 including, without limitation, before obtaining any education or paying any fee  
23 required to obtain a license from the Director.

24           5. A person may submit a new petition to the Director not earlier than 2 years  
25 after the final determination of the initial petition submitted to the Director.

26           6. The Director may impose a fee of up to \$50 upon the person to fund the  
27 administrative costs in complying with the provisions of this section. The Director  
28 may waive such fees or allow such fees to be covered by funds from a scholarship  
29 or grant.

30           7. The Director may post on the Internet website of the Department:

31           (a) The requirements to obtain a license from the Director; and

32           (b) A list of crimes, if any, that would disqualify a person from obtaining a  
33 license from the Director.

34           8. The Director may request the criminal history record of a person who  
35 petitions the Director for a determination pursuant to subsection 1. To the extent  
36 consistent with federal law, if the Director makes such a request of a person, the  
37 Director shall require the person to submit his or her criminal history record which  
38 includes a report from:

39           (a) The Central Repository for Nevada Records of Criminal History; and

40           (b) The Federal Bureau of Investigation.

41           9. A person who petitions the Director for a determination pursuant to  
42 subsection 1 shall not submit false or misleading information to the Director.

43           10. The Director of the State Department of Agriculture shall, on or before  
44 the 20th day of January, April, July and October, submit to the Director of the  
45 Legislative Counsel Bureau in an electronic format prescribed by the Director, a  
46 report that includes:

47           (a) The number of petitions submitted to the Director of the State Department  
48 of Agriculture pursuant to subsection 1;

49           (b) The number of determinations of disqualification made by the Director of  
50 the State Department of Agriculture pursuant to subsection 1;

51           (c) The reasons for such determinations; and

1 (d) Any other information that is requested by the Director of the Legislative  
2 Counsel Bureau or which the Director of the State Department of Agriculture  
3 determines would be helpful.

4 11. The Director of the Legislative Counsel Bureau shall transmit a  
5 compilation of the information received pursuant to subsection 10 to the Legislative  
6 Commission quarterly, unless otherwise directed by the Commission.

7 **Sec. 17.** NRS 555.310 is hereby amended to read as follows:

8 555.310 1. The Director shall collect from each person applying for  
9 examination or reexamination a testing fee established by regulation of the  
10 Director.

11 2. The Director shall, before the license or certificate is issued, collect from  
12 each person applying for a business license [~~governmental agency certificate~~]  
13 or license as an applicator [~~for government applicator~~] a fee established by regulation  
14 of the Director. Any person employing primary principals, location principals,  
15 principals, operators or agents shall pay to the Director a fee established by  
16 regulation of the Director for each primary principal, location principal, principal,  
17 operator or agent licensed.

18 **Sec. 18.** NRS 555.330 is hereby amended to read as follows:

19 555.330 1. The Director shall require from each applicant for a business  
20 license proof of public liability and property damage insurance in an amount of:

21 (a) Except as otherwise provided in paragraph (b), not less than \$50,000.

22 (b) If the business license would authorize the application of pesticides by  
23 aircraft:

24 (1) Not less than \$100,000 for bodily injury to or death of one person in  
25 any one accident;

26 (2) Subject to the limit for one person, not less than \$300,000 for bodily  
27 injury to or death of two or more persons in any one accident; and

28 (3) Not less than \$100,000 for each occurrence of damage to property in  
29 any one accident.

30 ↪ The Director may accept a liability insurance policy or surety bond in the proper  
31 amount.

32 2. The Director may require drift insurance for the use of pesticides or other  
33 materials declared hazardous or dangerous to humans, livestock, wildlife, crops or  
34 plantlife.

35 3. Any person injured by the breach of any such obligation is entitled to sue in  
36 his or her own name in any court of competent jurisdiction to recover the damages  
37 the person sustained by that breach, if each claim is made within 6 months after the  
38 alleged injury.

39 4. The Director on his or her own motion may, or upon receipt of a verified  
40 complaint of an interested person shall, investigate, as he or she deems necessary,  
41 any loss or damage resulting from the application of any pesticide by a licensed  
42 applicator, [~~licensed government~~] **commercial applicator, authorized commercial**  
43 **applicator**, licensed pest control operator, primary principal, location principal or  
44 principal. A verified complaint of loss or damage must be filed within 60 days after  
45 the time that the occurrence of the loss or damage becomes known except that, if a  
46 growing crop is alleged to have been damaged, the verified complaint must be filed  
47 before 50 percent of the crop has been harvested. A report of investigations  
48 resulting from a verified complaint must be furnished to the person who filed the  
49 complaint.

50 **Sec. 19.** NRS 555.350 is hereby amended to read as follows:

51 555.350 1. The Director may suspend, pending inquiry, for not longer than  
52 10 days, and, after opportunity for a hearing, may revoke, suspend or modify any

1 business license or license issued to an applicator ~~[or government applicator]~~ under  
2 NRS 555.2605 to 555.460, inclusive, if the Director finds that:

- 3 (a) The licensee is no longer qualified;
- 4 (b) The licensee has engaged in fraudulent business practices in pest control;
- 5 (c) The licensee has made false or fraudulent claims through any media by  
6 misrepresenting the effect of materials or methods to be used;
- 7 (d) The licensee has applied known ineffective or improper materials;
- 8 (e) The licensee has operated faulty or unsafe equipment;
- 9 (f) The licensee has made any application of materials in a manner inconsistent  
10 with labeling or any restriction imposed by regulation of the Director, or otherwise  
11 in a faulty, careless or negligent manner;
- 12 (g) The licensee has violated any of the provisions of NRS 555.2605 to  
13 555.460, inclusive, or regulations adopted pursuant thereto;
- 14 (h) The licensee has engaged in the business of pest control without having a  
15 licensed agent, operator, primary principal or principal in direct on-the-job  
16 supervision;
- 17 (i) The licensee has aided or abetted a licensed or an unlicensed person to  
18 evade the provisions of NRS 555.2605 to 555.460, inclusive, combined or  
19 conspired with such a licensee or an unlicensed person to evade the provisions, or  
20 allowed the license to be used by an unlicensed person;
- 21 (j) The licensee was intentionally guilty of fraud or deception in the  
22 procurement of the license;
- 23 (k) The licensee was intentionally guilty of fraud, falsification or deception in  
24 the issuance of an inspection report on wood-destroying pests or other report or  
25 record required by regulation;
- 26 (l) The licensee has been convicted of, or entered a plea of nolo contendere to,  
27 a category A or B felony or a category C, D or E felony if the conviction occurred  
28 or the plea was entered for the category C, D or E felony during the immediately  
29 preceding 10 years in any court of competent jurisdiction in the United States or  
30 any other country; or
- 31 (m) The licensee has failed to provide adequate instruction or supervision to  
32 any unlicensed ~~[employee]~~ *applicator* working under the supervision of the  
33 licensee.

34 2. A business license and any license issued to a principal of the business as  
35 an applicator is suspended automatically, without action of the Director, if the proof  
36 of public liability and property damage or drift insurance filed pursuant to NRS  
37 555.330 is cancelled, and the licenses remain suspended until the insurance is re-  
38 established.

39 3. If the licensee is a natural person, any licensee against whom the Director  
40 initiates disciplinary action pursuant to this section shall, within 30 days after  
41 receiving written notice of the disciplinary action from the Director and in  
42 accordance with any regulations adopted by the Department, submit to the Director  
43 any document or other information required by the Department to perform a  
44 background check of the licensee. Any document or other information submitted  
45 pursuant to this subsection must be accompanied by the appropriate fees, if any,  
46 specified in regulations adopted by the Department for performing the background  
47 check. A willful failure of a licensee to comply with the requirements of this  
48 subsection constitutes an additional ground for the revocation, suspension or  
49 modification of the license pursuant to this section.

50 **Sec. 20.** NRS 555.351 is hereby amended to read as follows:

51 555.351 *1.* Except as otherwise provided in ~~[NRS 555.2775:~~

52 ~~1. A]~~ *subsection 3, a* person shall not use any restricted-use pesticide within  
53 this State at any time without a certificate issued by the Director except a person

1 using any restricted-use pesticide under the supervision of ~~[-certified]~~ an  
 2 authorized commercial applicator who complies with the provisions of subsection  
 3 3, certified non-private applicator or private applicator.

4 2. If the Director has adopted regulations requiring:

5 (a) A permit pursuant to NRS 586.403; or

6 (b) A special use permit pursuant to NRS 586.405,

7 **↳** for a restricted-use pesticide, a person shall not use that pesticide without  
 8 obtaining the required permit.

9 **3. A person licensed as a commercial applicator and authorized to engage**  
 10 **in pest control is authorized to use or supervise the use of a restricted-use**  
 11 **pesticide without obtaining a certificate issued by the Director pursuant to NRS**  
 12 **555.357, if the person:**

13 (a) *Demonstrates that he or she satisfies the standards set forth in 40 C.F.R.*  
 14 *§ 171.103; and*

15 (b) *Otherwise complies with the provisions of this chapter and any*  
 16 *regulations adopted pursuant to this chapter governing the use of restricted-use*  
 17 *pesticides.*

18 **Sec. 21.** NRS 555.355 is hereby amended to read as follows:

19 555.355 1. The Director may require the applicant to show, upon  
 20 examination, that the applicant possesses adequate knowledge concerning the  
 21 proper use and application of restricted-use pesticides and the dangers involved and  
 22 precautions to be taken in connection with the application of those pesticides . ~~↳~~  
 23 ~~including, but not limited to, the following areas:~~

24 ~~— (a) Label and labeling comprehension.~~

25 ~~— (b) Environmental consequences of pesticide use and misuse.~~

26 ~~— (c) Pests.~~

27 ~~— (d) Pesticides.~~

28 ~~— (e) Equipment.~~

29 ~~— (f) Application techniques.~~

30 ~~— (g) Laws and regulations.~~

31 ~~— (h) Safety.]~~

32 2. In addition, the Director may require the applicant to meet special  
 33 qualifications of competency to meet the special needs of a given locality regarding  
 34 the use or application of a specific restricted-use pesticide.

35 3. ***The Director shall require an applicant to demonstrate:***

36 (a) ***If the applicant is applying to be certified as a non-private applicator, that***  
 37 ***he or she satisfies the standards set forth in 40 C.F.R. § 171.103.***

38 (b) ***If the applicant is applying to be certified as a private applicator, that he***  
 39 ***or she satisfies the standards set forth in 40 C.F.R. § 171.105.***

40 4. The Director shall collect from each person applying for an examination or  
 41 reexamination, in connection with the issuance of a certificate, a testing fee  
 42 established by regulation of the State Board of Agriculture for any one examination  
 43 period.

44 **Sec. 22.** NRS 555.359 is hereby amended to read as follows:

45 555.359 The Director may deny or suspend, pending inquiry, for not longer  
 46 than 10 days, and, after opportunity for a hearing, may deny, revoke, suspend or  
 47 modify any certificate issued under the provisions of NRS 555.351 to 555.357,  
 48 inclusive, if the Director finds that the applicant or the ~~[-certified]~~ authorized  
 49 commercial applicator, certified non-private applicator or private applicator:

50 1. Is no longer qualified;

51 2. Has applied known ineffective or improper materials;

52 3. Has applied materials inconsistent with labeling or other restrictions  
 53 imposed by the Director;

- 1           4. Has operated faulty or unsafe equipment;  
 2           5. Has made any application in a faulty, careless or negligent manner;  
 3           6. Aided or abetted an uncertified person to evade the provisions of NRS  
 4 555.351 to 555.357, inclusive, combined or conspired with an uncertified person to  
 5 evade those provisions, or allowed one's certificate to be used by an uncertified  
 6 person;  
 7           7. Was guilty of fraud or deception in the procurement of the certificate;  
 8           8. Has deliberately falsified any record or report;  
 9           9. Has violated any of the provisions of NRS 555.351 to 555.357, inclusive,  
 10 555.390 or any regulation adopted pursuant thereto; or  
 11           10. Has failed or neglected to give adequate instruction or direction to an  
 12 uncertified person working under his or her supervision.

13       **Sec. 23.** NRS 555.390 is hereby amended to read as follows:

14       555.390 1. The Director may, by regulation, require any licensee or non-  
 15 private applicator to maintain such records and furnish reports giving such  
 16 information with respect to particular applications of pesticides and such other  
 17 relevant information as the Director may deem necessary.

18       2. The Director may, by regulation, require any ~~certified~~ authorized  
 19 commercial applicator, certified non-private applicator or private applicator to  
 20 maintain such records and furnish reports giving such information with respect to  
 21 application of restricted-use pesticides and such other relevant information as the  
 22 Director may deem necessary.

23       **Sec. 24.** A person who, on the effective date of this act, is the holder of a  
 24 valid license as a government applicator issued pursuant to NRS 555.2775, as that  
 25 section existed before the effective date of this act, who is otherwise qualified to  
 26 hold such a license on that date and who uses restricted-use pesticide in compliance  
 27 with NRS 555.2775, as that section existed before the effective date of this act,  
 28 shall be deemed to hold a certificate to use restricted-use pesticides issued pursuant  
 29 to NRS 555.357 until his or her license as a government applicator expires or is  
 30 revoked, whichever occurs first.

31       **Sec. 25.** NRS 555.2642, 555.2643, 555.2688, 555.2771, 555.2772, 555.2773,  
 32 555.2774 and 555.2775 are hereby repealed.

33       **Sec. 26.** This act becomes effective upon passage and approval.

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## LEADLINES OF REPEALED SECTIONS

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555.2642 "Government applicator" defined.

555.2643 "Governmental agency certificate" defined.

555.2688 "Unlicensed employee" defined.

555.2771 Governmental agency certificate.

555.2772 License as government applicator.

555.2773 Application for governmental agency certificate or license as  
 government applicator.

555.2774 Examination and qualifications of applicant for license as  
 government applicator; testing fee established by regulation.

555.2775 Issuance and renewal of license as government applicator; fee;  
 written explanation of denial.