

1989

Session Law 89-180

Florida Senate & House of Representatives

Follow this and additional works at: <https://ir.law.fsu.edu/staff-analysis>



Part of the Legislation Commons

Recommended Citation

House of Representatives, Florida Senate &, "Session Law 89-180" (1989). *Staff Analysis*. 938.
<https://ir.law.fsu.edu/staff-analysis/938>

This Article is brought to you for free and open access by the Florida Legislative Documents at Scholarship Repository. It has been accepted for inclusion in Staff Analysis by an authorized administrator of Scholarship Repository. For more information, please contact efarrell@law.fsu.edu.

H 169 GENERAL BILL/CS/1ST ENG by Health & Rehabilitative Services; Kelly (Similar CS/S 780, Compare H 793, CS/S 865)
Pest Control/Inspections; requires H.R.S. to hold public meetings for proposed statutory or rule changes re pest control; requires adoption of specified rules re vehicles, trailers, & contracts; revises provisions re requirements for ID cards for persons performing inspections; establishes advisory committee; requires pest control businesses or operators to provide certain information to customers, upon request, etc. Amends Ch. 482. Effective Date: 10/01/89.

01/27/89 HOUSE Prefiled
 01/31/89 HOUSE Referred to Health & Rehabilitative Services; Finance & Taxation; Appropriations
 04/04/89 HOUSE Introduced, referred to Health & Rehabilitative Services; Finance & Taxation; Appropriations -HJ 27; Subreferred to Subcommittee on Health, Mental Health and Substance Abuse; On subcommittee agenda—Health & Rehabilitative Services. 04/06/89, 8:00 am, 415-HOB, or if not completed 04/06/89, will be considered 04/07/89, 10:15 am, 16-HOB Subcommittee Recommendation: Favorable as a proposed CS
 04/06/89 HOUSE On Committee agenda—Health & Rehabilitative Services, 04/11/89, 3:30 pm, 314-HOB
 04/11/89 HOUSE Preliminary Committee Action by Health & Rehabilitative Services: Favorable as a CS
 04/18/89 HOUSE Comm. Report: CS by Health & Rehabilitative Services -HJ 233; CS read first time -HJ 229; Now in Finance & Taxation -HJ 233
 04/25/89 HOUSE Withdrawn from Finance & Taxation -HJ 269; Now in Appropriations
 05/16/89 HOUSE On Committee agenda—Appropriations, 05/18/89, 1:00 pm, 21-HOB
 05/18/89 HOUSE Preliminary Committee Action by Appropriations: Favorable
 05/22/89 HOUSE Comm. Report: Favorable by Appropriations, placed on Calendar -HJ 567
 05/26/89 HOUSE Placed on Consent Calendar; Read second time; Amendments adopted; Read third time; CS passed as amended; YEAS 111 NAYS 0 -HJ 679
 05/26/89 SENATE In Messages
 05/30/89 SENATE Received, referred to Health Care; Appropriations -SJ 564
 06/01/89 SENATE Withdrawn from Health Care; Appropriations -SJ 828; Substituted for CS/SB 780; CS passed; YEAS 35 NAYS 0 -SJ 829
 06/01/89 Ordered enrolled
 06/13/89 Signed by Officers and presented to Governor
 06/28/89 Approved by Governor; Chapter No. 89-180; See also: HB 793 (Ch. 89-198)

B
I
L
L
H
I
S
T
O
R
Y

NOTES: Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

****AS PASSED BY THE 1989 LEGISLATURE****

STORAGE NAME: H169f/HRS.ldm/sq
DATE: June 6, 1989

**HOUSE OF REPRESENTATIVES
COMMITTEE ON HEALTH & REHABILITATIVE SERVICES
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: CS\HB 169

RELATING TO: Pest Control/Inspections

SPONSOR(S): House HRS Committee & Representative Kelly

EFFECTIVE DATE: October 1, 1989

DATE BECAME LAW: June 28, 1989

CHAPTER #: 89-180, Laws of Florida

COMPANION BILL(S): CS/SB 780

OTHER COMMITTEES OF REFERENCE: (1) Finance and Taxation
(2) Appropriations

I. SUMMARY:

A. PRESENT SITUATION:

WS

Chapter 482, F.S., the Pest Control Act, provides for the regulation of pest control businesses and their employees. The Department of Health and Rehabilitative Services (HRS) is responsible for administering the regulatory program through the Office of Entomology.

Present law states that the Office of Entomology is under the Assistant Secretary for Operations. Chapter 86-220, Laws of Florida, renamed the Assistant Secretary for Operations as the Deputy Secretary for Operations. Chapter 88-235, Laws of Florida, renamed the Deputy Assistant Secretary for Health as the Deputy Secretary for Health.

Any business desiring to engage in pest control must be licensed and a license is required for each business location. Proof of insurance coverage for bodily injury and property damage is required.

Supervisory level employees (pest control operators) must be certified. Pest control employees other than pest control operators are required to have identification cards. Special identification cards are required for particular pest control treatments such as fumigation. Examinations are required for certificateholders and special identification cardholders.

All licenses, certificates, and identification cards are renewed on an annual basis. Fees are deposited into the Pest Control

Trust Fund. Revenues from fines are deposited into the General Revenue Fund. The Department of HRS is authorized to adopt and enforce rules and to take disciplinary action against licensees and certificateholders, including probation, reprimands, suspension and revocation.

Chapter 10D-55, Florida Administrative Code, governs the regulation of pest control.

B. EFFECT OF PROPOSED CHANGES:

CS/HB 169 modifies a number of provisions of Chapter 482, F.S., resulting in the deletion of some restrictions on the pest control industry and its personnel. Certain additional restrictions and requirements are imposed. Major provisions included are:

- o Persons performing interior plant pest control on the effective date of the act are allowed to take the examination for certification in the lawn and ornamental pest control category for a period of one year without meeting other qualifications of the act.
- o All monies generated from the regulatory provisions of Chapter 482, F.S., shall be deposited into the Pest Control Trust Fund and all fine revenues are to be used to support contract research in all pest control categories.
- o The maximum fee cap for administrative fines is increased from \$500 to \$1,000 and reference to the minimum fee cap is deleted. The fee caps for the application for examination are increased. The minimum fee cap is increased from \$75 to \$100 and the maximum fee cap from \$100 to \$150. The examination fee for each category is increased from \$75 to \$100.
- o Content areas to be completed by certificateholders in fulfilling the continuing education requirement are specified. All certificateholders will have to complete a minimum of four hours and some will have to complete up to 10 hours to fulfill the category specific requirement.
- o Remedies available to HRS are expanded to include issuance of cease and desist orders for the unlicensed practice of pest control; authorization to seek an injunction or writ of mandamus to enforce such orders; and authorization to seek the imposition of civil suits through circuit court for any violations for which it may issue cease and desist orders. Civil penalties are set at no less than \$500 and no more than \$5,000 for each offense and court costs and reasonable attorney's fees are to be awarded to the prevailing party.
- o All present exemptions are deleted under the provisions of CS/HB 169 and HRS is authorized to prescribe certain exemptions by rule.

STORAGE NAME: H169f/HRS.ldm/sg
DATE: June 6, 1989
PAGE: 3

- o Imposes responsibility to disclose specific information to customers, upon request and imposes a duty to post a conspicuous notice at the time of pesticide application to lawns and exterior foliage.
- o Requires advance notice of pesticide application to chemically sensitive persons.

C. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 482.021, F.S., related to definitions. Definition changes include:

Removes specific reference to rodent control in the definition of "category" for which a pest control operator's certificate may be issued.

Redefines "lawn and ornamental pest control" to mean pest control with respect to pests of any lawn or ornamental.

Redefines "pest control." Reference to terrestrial weed is deleted.

Redefines "structural pest control" to mean pest control except with regard to lawns or ornamentals.

Deletes the definition of "terrestrial weed."

Redefines "wood-destroying organism" to mean arthropod or plant life which damages and can reinfest seasoned wood in a structure, namely termites, powder-post beetles, oldhouse borers and wood-decaying fungi.

Section 2. Amends s. 482.051, F.S., related to rules. The bill requires HRS to hold public hearings or counsel with industry members when proposing changes to the statutes or rules. Requires HRS to adopt rules requiring vehicles and trailers used in pest control to be marked with the licensee's name that is registered with HRS. Requires HRS to adopt a rule requiring licensees to comply with contracts issued.

Section 3. Amends s. 482.032, F.S., related to enforcement. Renames the Office of Entomology as the Office of Entomology Services and renames the administrator of that office as the chief. Places the Office of Entomology Services under the Deputy Secretary for Health.

Section 4. Amends s. 482.061, F.S., related to inspectors. References the chief of the Office of Entomology Services instead of the present administrator for the office.

Section 5. Amends s. 482.071, F.S., related to licenses, to require each licensee to display his current license within his business location.

STORAGE NAME: H169f/HRS.ldm/sg

DATE: June 6, 1989

PAGE: 4

Section 6. Amends s. 482.091, F.S., related to identification cards. Deletes the requirement that the licensee or certified operator in charge provide written notification to the department, within ten days, of the date of termination of an employee of the licensee who secured the card. Modifies the current requirement for an application for an identification card by those individuals performing inspections for wood-destroying organisms, under the provisions of s. 482.226, F.S. Requires the affidavit accompanying an application for the identification card to be signed by not only the prospective cardholder, but also by the licensee or certified operator in charge.

Section 7. Amends s. 482.111, F.S., related to certificates and the disposition of moneys received. Modifies the requirement that each pest control operator be certified before engaging in pest control work. Modifies the requirement that an application and the issuance fee for the original certificate be paid to HRS within 60 days from the date of written notification of passing the exam. Requires application and payment within 60 days after the postmark date of written notice of passing the exam. Deletes reference to the fine revenues in s. 482.161(7). States that fine revenues must be used to support contract research in all pest control categories. Requires HRS to appoint a committee composed of industry members to assist HRS in specified activities (e.g. establishing research priorities, developing requests for proposals). Modifies the specifications for who may be issued emergency pest control certificates by HRS and the length of time for which they are valid. Allows HRS to issue these certificates and additional emergency certificates to designated identification cardholders for 30 days. In the event of the death of a certified operator in charge, allows a specified extension for issuing additional emergency certificates. Requires HRS to collect \$50 for each emergency certificate issued. Deletes reference to the \$25 collected for each 10-day emergency certificate and the \$50 collected for each additional period for which an emergency certificate is issued. Deletes reference to certain required evidence in an interim report of specific actions being taken to fill the vacancy created by emergencies, and adds new language. Specifies the contents and hours devoted to each area for the continuing education requirement by the certificateholder prior to the certificate's renewal. Modifies the reference to the certificateholder's statement about continuing education.

Section 8. Amends s. 482.121, F.S., related to the false use of certificates. Clarifies the responsibilities of certified pest control operators in the use of their certificates by licensees to secure or keep a license. Requires that the certified pest control operator's primary occupation be with the licensee. Specifies that the consequence of the false use of a certificate may result in automatic revocation of a certificate and a business license.

STORAGE NAME: H169f/HRS.ldm/sg
DATE: June 6, 1989
PAGE: 5

Section 9. Amends s. 482.132, F.S., related to the qualifications for examination and certification. Allows persons with a degree with advanced training or a major in botany to qualify for an exam; allows persons who possess a degree with advanced training or a major in entomology to qualify for the exam in all categories; allows persons with a degree with advanced training or a major in horticulture or botany to qualify for the exam in lawn or ornamental pest control; and allows a person with a 2-year degree in horticultural technology or the equivalent from a college or university, with advanced training of 20 or more semester hours or 30 or more quarter hours of credit in horticulture to qualify for the exam in lawn and ornamental pest control. Permits the certification of certain persons in the lawn and ornamental pest control category; permits such persons to take the certification examination for a period of one year without meeting other requirements for certification if they are engaged in certain interior plant pest control on the effective date of this act.

Section 10. Amends s. 482.141, F.S., related to examinations. Increases the fee caps for the application for examination; increases the minimum cap from \$75 to \$100 and the maximum cap from \$100 to \$150; and increases the examination fee for each category from \$75 to \$100.

Section 11. Amends s. 482.151, F.S., related to special identification cards. Modifies the requirement that an application and the issuance fee for the original special identification card be paid to HRS within 60 days from the date of written notification of passing the exam. Requires application and payment within 60 days after the postmark date of written notice of passing the exam. Requires the cardholder, prior to the renewal date, to complete 4 hours of continuing education in specified areas or pass an exam given by HRS.

Section 12. Amends s. 482.152, F.S., related to the duties of certified pest control operators in charge of pest control activities of a licensee. Clarifies the duties of the certified pest control operator and removes the exemption for certified pest control operators having no employees from the requirements that he: a) maintain his primary occupation in the pest control business; and b) be employed full-time by a licensee. Removes the requirement that a certified operator be a resident of the state.

Section 13. Amends s. 482.161, F.S., related to the remedies of the Department of HRS. Adds the issuance of a warning letter to the list of disciplinary options HRS may take against licensees, operators, or cardholders; adds to those who may not be issued another license any person with ownership interest in the revoked business license and who knew or should have known of the violation; clarifies that the effects of revoking or suspending a license, identification card, or special identification card may

37

STORAGE NAME: H169f/HRS.ldm/sg
DATE: June 6, 1989
PAGE: 6

be taken into consideration by HRS in taking action; increases the cap on administrative fines from a minimum of \$25 and a maximum of \$500 to \$1,000; specifies that all money collected under this section must be deposited into the Pest Control Trust Fund and deletes reference to deposit of same into the General Revenue Fund.

Section 14. Creates s. 482.165, F.S., related to the unlicensed practice of pest control, cease and desist notices, injunction, and civil suit and penalty. States that it is against the law to practice pest control without a license. Requires HRS to issue cease and desist orders for the unlicensed practice of pest control under certain conditions; authorizes additional remedies including injunctions and civil suits; establishes civil penalties; authorizes the award of court costs and reasonable attorney's fees to the prevailing parties. States that the unlawful practice of pest control is grounds for a denial when applying for a license. States that the provisions of this section apply only to the performance of pest control as defined in s. 482.021(15).

Section 15. Amends s. 482.211, F.S., related to exemptions. Deletes all present exemptions and allows HRS to prescribe certain exemptions by rule.

Section 16. Amends s. 482.226, F.S., related to inspection reports, and notice of inspection or treatment. Clarifies conditions for inspections made for the purpose of real estate transactions; requires that the inspection include one for all wood-destroying organisms; clarifies the contents of a signed report after each reinspection or retreatment to include an indication of the common or brand name pesticide used. Periodic reinspections or retreatments may not be performed unless the person has a specific type of identification card. Requires any licensee performing wood destroying inspections in accordance with subsection (1) to meet specified minimum financial responsibilities. Requires proof of meeting the requirements and requires HRS to specify any further requirements by rule.

Section 17. Imposes upon those licensed or certified under the provisions of the Pest Control Act the responsibility to disclose specific information to customers, upon request. Details the information that must be disclosed. Imposes a duty to post a conspicuous notice at the time of pesticide application to lawns and exterior foliage. Requires advance notice of pesticide application to chemically sensitive persons. Requires HRS to establish criteria by rule for provisions related to medical proof of chemical sensitivity and for provisions related to advance notification of chemically sensitive persons. Requires HRS to provide the physical makeup and wording for the notice posted when a pesticide is applied to a lawn or exterior foliage. HRS is the intermediary through which information passes about individuals who have submitted medical proof of chemical sensitivity. Requires HRS to provide to those licensed or certified under the provisions of Chapter 482, F.S., the name and address of each individual who has submitted medical proof of

chemical sensitivity and paid a fee.

Allows customers of pest control services to obtain specific information from any person licensed or certified under the provisions of Chapter 482, F.S. Authorizes anyone to submit medical proof of chemical sensitivity and his home address to HRS by certified mail.

Section 18. Schedules each section added to Chapter 482, F.S., for repeal and review.

Section 19. Provides an effective date of October 1, 1989.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT: FY 89-90 FY 90-91

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

Indeterminate

2. Recurring or Annualized Continuation Effects:

Indeterminate

3. Long Run Effects Other Than Normal Growth:

None anticipated.

4. Appropriations Consequences:

REVENUES:

| | |
|-------------------------|--------|
| Pest Control Trust Fund | 60,000 |
|-------------------------|--------|

38

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None anticipated; however, CS/HB 169 removes all current exemptions from the provisions of Chapter 482, F.S., and allows HRS to prescribe certain exemptions by rule.

2. Recurring or Annualized Continuation Effects:

(See B. 1.)

3. Long Run Effects Other Than Normal Growth:

(See B. 1.)

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

The Department of HRS provided the following estimates:

| | |
|----------|-----------|
| FY 89-90 | FY 90-91 |
| \$50,000 | \$100,000 |

Under the current provisions of Chapter 482, F.S., pest control businesses and their employees are required to pay fees. Due to the proposed increase in fees for examinations and emergency certificates, new costs to licensees, as reflected above, would occur as a consequence of CS/HB 169.

Since the bill requires an examination for each category of pest control in which a person is certified, some persons pay up to four examination fees and could incur increased costs if fees are set at the caps. Pest control businesses could incur costs due to the increase in the fee for emergency certificates, in the event that a pest control company found it necessary to obtain an emergency certificate.

Persons against whom a civil suit is brought by the Department of HRS for unlicensed activity may incur penalties of up to \$5,000 for each offense and court costs, as well as costs for court awarded attorney's fees.

Licensees performing certain wood-destroying inspections are required to meet specified minimum financial responsibilities, under the provisions of the bill. This would likely result in costs to these licensees.

Committee Substitute for House Bill 169 permits anyone to submit by certified mail, medical proof of chemical sensitivity. The number of individuals who would submit medical proof of chemical sensitivity and pay the fee set by HRS is unknown at this time. The cost of obtaining medical proof of chemical sensitivity would likely be assumed by either the individual wishing to submit proof or his insurance company.

The likely costs to pest control businesses under the provisions of CS/HB 169 would be those incurred for posting notice of pesticide application to lawns and exterior foliage, providing specified information to those customers requesting it, and providing advance notification of pesticide application to chemically sensitive individuals.

According to the Department of HRS, there are approximately 2,400 pest control companies in Florida and approximately 1,300 of them are licensed in the lawn and ornamental pest control category. HRS has estimated that it will cost the pest control companies \$1,404,000 annually to post notices. This estimate is based upon 1,300 companies, with an average of 900 customers per company, spraying 6 times per year for a

STORAGE NAME: H169f/HRS.ldm/sg
DATE: June 6, 1989
PAGE: 9

total of 7,020,000 sprayings per year. The cost per sign was estimated to be \$.20. The average cost per company per year is estimated to be \$1,080.

It is anticipated that costs incurred by pest control businesses as a consequence of the provisions of CS/HB 169, will be passed on to customers.

2. Direct Private Sector Benefits:

The Department of HRS has indicated that approximately 300 persons would initially be eligible to take the lawn and ornamental category examination.

Individuals who are chemically sensitive may benefit from the advance notice provisions. In addition, the public may benefit from the posted notice of pesticide application on lawns or exterior foliage.

If the opinions of health care professionals are sought to establish medical proof of chemical sensitivity, the health care industry may benefit.

3. Effects on Competition, Private Enterprise, and Employment Markets:

Since CS/HB 169 proposes to regulate businesses performing interior plant pest control, competition among this segment of the industry could be affected by establishing requirements which will increase operating costs for these businesses. The provisions of Chapter 482, F.S., for example, require pest control businesses to carry insurance coverage for bodily injury and property damage. The ability of pest control businesses to secure or afford the required coverage will determine the effect on the industry by such a requirement.

According to the Department of HRS, it is anticipated that the increased revenues generated by CS/HB 169 will affect normal growth for at least the next 2-3 years.

39

D. FISCAL COMMENTS:

Fine revenues are presently deposited in the General Revenue Fund. Committee Substitute for House Bill 169 requires the deposit of all revenues in the Pest Control Trust Fund. Consequently, the General Revenue Fund would be decreased by the amount of monies generated from the fines imposed by this provision. According to HRS, fines are expected to provide an additional \$10,000 to \$15,000 for the Pest Control Fund per the provisions of CS/HB 169.

The Department of HRS could incur costs due to a provision in CS/HB 169 that authorizes the court to award costs and attorney's

STORAGE NAME: H169f/HRS.ldm/sg
DATE: June 6, 1989
PAGE: 10

fees to the prevailing party in civil suits.

Committee Substitute for House Bill 169 requires HRS to provide all licensed or certified persons in the pest control business with the name and home address of those individuals who have submitted medical proof of chemical sensitivity and paid a fee. The Department of HRS has indicated that the costs of notification will be recovered by fees charged. The amount of revenue derived from fees from persons submitting medical proof is indeterminate.

III. LONG RANGE CONSEQUENCES:

To the extent that: a. information provided to chemically sensitive individuals and the public about the presence of pesticides leads to the prevention of illness; and b. regulation of interior plant pest control businesses and operators and others promotes the proper application of pesticides in locations frequented by the public, CS/HB 169 is consistent with goal 6 of the State Comprehensive Plan related to health:

12. Ensure that all health-care related policies and programs emphasize wellness, the prevention of illness and injury, and rehabilitative care.

IV. COMMENTS:

On November 22, 1988, the Office of the Auditor General completed a performance audit of the pesticide regulatory programs administered by the Department of Agriculture and Consumer Services and the Department of HRS. The major findings, as they relate to HRS, included the following:

There is a need to improve or develop procedures for pesticide regulatory inspections, enforcement actions, and follow-up activities.

Gaps exist in the regulation of several groups which apply pesticides in structures.

Coordination efforts among state pesticide regulatory agencies need to be improved.

The performance audit recommended that the Legislature amend Chapter 482, F.S., to:

Develop rules for pest control activities performed by governmental agencies, apartment complexes, hotels, and motels.

Give HRS the authority to investigate and sanction the pest control activities of unlicensed operators.

Committee Substitute for House Bill 169 removes the current exemptions under Chapter 482, F.S. To the extent that HRS does not

STORAGE NAME: H169f/HRS.ldm/sg
DATE: June 6, 1989
PAGE: 11

exempt by rule the activities performed by apartment complexes, hotels, and motels, CS/HB 169 appears to address the first legislative recommendation. CS/HB 169 also creates a provision to address unlicensed operators.

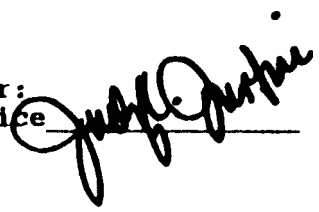
CS/HB 169 appears to be consistent with the Policy Statement generated by the Florida House of Representatives in December, 1988, on structural and natural resources that emphasizes communicating the goals of regulation, how the regulation will be implemented, and what the regulation will cost.

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:
Lynda deMarsh-Mathues/sg

Staff Director:
Judy C. Justice



SECOND COMMITTEE OF REFERENCE:

Prepared by:

Staff Director:

APPROPRIATIONS:

Prepared by:

Staff Director:

REVISED: May 23, 1989BILL NO. CS/SB 780DATE: May 22, 1989Page 1

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

| <u>ANALYST</u> | <u>STAFF DIRECTOR</u> | <u>REFERENCE</u> | <u>ACTION</u> |
|--------------------|-----------------------|------------------|--------------------|
| 1. _____ | _____ | 1. HRS | Withdrawn |
| 2. _____ | _____ | 2. AP | Withdrawn |
| 3. <u>Williams</u> | <u>Wilson</u> | 3. <u>HC</u> | <u>Fav/CS</u> |
| 4. <u>Eccles</u> | <u>Smith</u> | 4. <u>AP</u> | <u>Fav/1 amend</u> |

SUBJECT:

Pest Control/Inspections

BILL NO. AND SPONSOR:

CS/SB 780 by
Committee on Health Care and
Senator KiserI. SUMMARY:

A. Present Situation:

Chapter 482, Florida Statutes, the Pest Control Act, provides for the regulation of pest control businesses and their employees. The Department of Health and Rehabilitative Services (HRS or department) is responsible for administering the regulatory program through the Office of Entomology.

Any business desiring to engage in pest control must be licensed and a license is required for each business location. Proof of insurance coverage for bodily injury and property damage is required.

Pest control supervisory level employees, pest control operators, must be certified. Pest control employees other than pest control operators are required to have identification cards. Special identification cards are required for specific pest control treatments, such as fumigation. Examinations are required for certificate holders and special identification cardholders.

All licenses, certificates, and identification cards are renewed on an annual basis. Fees are deposited in the Pest Control Trust Fund. Revenue generated by fines is deposited in the General Revenue Trust Fund. The department is authorized to adopt and enforce rules and to take disciplinary action against licensees and certificate holders, including probation, reprimands, suspension, and revocation.

Chapter 10D-55, Florida Administrative Code, governs the regulation of pest control.

Section 482.032, Florida Statutes, indicates that the Office of Entomology is under the Assistant Secretary for Operations. Chapter 86-220, Laws of Florida, renamed the Assistant Secretary for Operations as the Deputy Secretary for Operations and transferred the Office of Entomology to the Deputy Assistant Secretary for Health. Chapter 88-235, Laws of Florida, renamed the Deputy Assistant Secretary for Health as the Deputy Secretary for Health.

The Department of HRS currently has no specific statutory authority for dealing with unlicensed pest control operators. The department writes "cease and desist" letters and applies to the courts for injunctions if operators continue their activities. Termite inspectors who do real estate inspections have to have a wood-destroying organism identification card, but those who reinspect houses on annual contracts do not.

There is currently no specific statutory provision relating to protecting members of the public who are especially sensitive to pesticides.

Governmental agencies are exempted from licensing, as are persons, business entities, and corporations that perform pest control on their own property.

On November 22, 1988, the Office of the Auditor General completed a performance audit of the pesticide regulatory programs administered by HRS and the Department of Agriculture and Consumer Services. The performance audit recommended that the Legislature amend chapter 482, Florida Statutes, to: direct HRS to develop rules for pest control activities performed by governmental agencies, apartment complexes, hotels, and motels; and give HRS the authority to investigate and sanction the pest control activities of unlicensed operators.

B. Effect of Proposed Changes:

Committee Substitute for Senate Bill 780 modifies a number of provisions of chapter 482, Florida Statutes, deleting some of the restrictions on the pest control industry and its personnel, while at the same time, imposing additional restrictions and requirements. The bill:

- o "Grandfathers" interior plant pest control operators into the lawn and ornamental category examination for a period of one year;
- o Modifies continuing education requirements for certificate renewal to require training to be category specific for categories in which persons are certified;
- o Standardizes emergency certification periods and fees;
- o Increases fines and deposits fees into the Pest Control Trust Fund;
- o Provides for enforcement action against unlicensed pest control operators;
- o Increases examination fees;
- o Modifies identification card application procedures for those seeking wood-destroying organism identification;
- o Revises process for exempting certain groups of pesticide applicators; and
- o Provides for notification of chemically sensitive persons, the posting of notices for application of lawn or exterior foliage pesticides, and the provision of applicator and chemical information.

Sectional Analysis

Section 1. Amends section 482.021, Florida Statutes, relating to definitions, to revise definitions of "category," "lawn and ornamental pest control," "pest control," "structural pest control," and "wood-destroying organism" and to delete the definition of "terrestrial weed."

Section 2. Amends section 482.051, Florida Statutes, relating to rules, to require HRS to: hold public hearings or counsel with industry members when proposing changes to statutes or rules; adopt rules requiring vehicles and trailers used in pest control to be marked with the licensee's name as registered

with HRS; and adopt a rule requiring licensees to comply with contracts issued.

Section 3. Amends section 482.032, Florida Statutes, relating to enforcement, to rename the "Office of Entomology" as the "Office of Entomology Services" and to make conforming changes related to supervision.

Section 4. Amends section 482.061, Florida Statutes, relating to inspectors, to make conforming title changes.

Section 5. Amends section 482.071, Florida Statutes, relating to licenses, to require each licensee to display his current license within his business location.

Section 6. Amends section 482.091, Florida Statutes, relating to identification cards, to delete the requirement that the licensee or certified operator in charge provide written notification to HRS within 10 days of the date of termination of the cardholder's employment with the licensee, to modify the application requirement for an identification card for those individuals performing inspections for wood-destroying organisms, and to require the affidavit accompanying an identification card application to be signed by the applicant and by the licensee or certified operator in charge.

Section 7. Amends section 482.111, Florida Statutes, relating to certification revenue, to: modify the certification process for pest control operators; delete reference to fine revenues and cross-reference to s. 482.161; indicate that fine revenues are to be used to support contract research in pest control; require HRS to appoint a committee; modify emergency certification process; and modify continuing education requirements for certificate renewal.

Section 8. Amends section 482.121, Florida Statutes, relating to false use of certificates, to clarify responsibility of certified pest control operators in the use of their certificates by licensee, to require that the certified pest control operators primary occupation be with the licensee, and to provide sanctions for false use of certificates.

Section 9. Amends section 482.132, Florida Statutes, relating to examination and certification qualifications, to allow those with advanced training or a major in botany to qualify for examination in all pest control categories, to allow those with a major in botany or degree in horticultural technology to qualify for the examination on lawn and ornamental pest control, to permit the "grandfathering" of certain qualified people wishing to take the examination for lawn and ornamental pest control certification.

Section 10. Amends section 482.141, Florida Statutes, relating to examinations, to increase the maximum fee for examination applications from a range of \$75 to \$100, to a range of \$100 to \$150, and to increase the categorical examination fee from \$75 to \$100.

Section 11. Amends section 482.151, Florida Statutes, relating to special identification cards, to modify the application process and to provide continuing education requirements.

Section 12. Amends section 482.152, Florida Statutes, relating to operator duties, to clarify the specific duties of the operator, deleting the state residency requirement and certain exemptions for operators having no employees.

Section 13. Amends section 482.161, Florida Statutes, relating to remedies, to: authorize HRS to issue written warnings; prohibit the issuance of a license to anyone affiliated with the holder of a revoked license; authorize HRS to take into

consideration the impact of revocation or suspension of a license, identification card, or special identification card; and increase the cap on fines and require that fine revenue be deposited in the Pest Control Trust Fund.

Section 14. Creates section 482.165, Florida Statutes, relating to unlicensed practices and HRS actions, to specify the licensing requirement for pest control activities, and to specify a variety of remedies and sanctions including injunction, civil suits, civil penalties, license application denial, and limitations.

Section 15. Amends section 482.211, Florida Statutes, relating to exemptions, to delete existing specific exemptions from pest control regulation and to authorize HRS to prescribe exemptions by rule.

Section 16. Amends section 482.226, Florida Statutes, relating to inspection reports, to clarify conditions for reports and report content and to clarify reinspection standards.

Section 17. Creates section 482.2265, Florida Statutes, relating to notice of pesticide application: to require pest control applicators to provide certain basic information to customers regarding the applicator's affiliation and identification, pesticide identification, and safety information, if requested by the customer; to require the posting of notices at the time of application of a pesticide to a lawn or to exterior foliage; and to require HRS to establish by rule a program to notify pest control businesses of the name and address of chemically sensitive persons so the business can in turn notify these persons prior to application of pesticides.

Section 18. Provides for the future review and repeal of those statutory provisions created in Sections 14. and 17. of this bill.

Section 19. Provides for an October 1, 1989, effective date.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

To the extent that this bill increases fees for examination, certificates, and fines which will be incurred by the pest control industry, these minimum costs will likely be passed on to the public by the industry. The cost of posting required notices will also be passed to the consumer.

Chemically sensitive persons will benefit from the notification provisions of this bill, but will have to pay a fee, to be determined by HRS, for their participation in this program.

B. Government:

The Department of HRS has indicated that it will incur no adverse economic impact as a result of this bill.

Fine revenues currently being deposited into General Revenue will be deposited in the Pest Control Trust Fund. This has been estimated by HRS to have an estimated \$10,000 to \$15,000 negative impact on General Revenue.

The Department of HRS estimates that the increase in revenues due to the increase in fee amounts for examination and emergency certification will be \$50,000 for the first year.

III. COMMENTS:

The Department of HRS indicates that the provisions of the bill have been presented to the regulated industry, which expressed no opposition to the changes. In fact, the industry recommended the increase in examination fees and approved retention of fine revenues in the Pest Control Trust Fund to support pest control research.

IV. AMENDMENTS:

#1 by Appropriations: Provides that HRS shall develop the wording and physical makeup of the required notice of licensure or certification of a pest control business and shall establish, by rule, criteria for medical proof by which a person may be determined to be chemically sensitive.