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# Agriculture

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# Agriculture

## Agriculture; pest control—Africanized honey bees

Business and Professions Code § 8565.6 (new); Food and Agricultural Code §§ 29320, 29321 (new); §§ 12203, 14153 (amended).  
SB 250 (Kelley); 1994 STAT. Ch. 298

Under existing law, an applicant for a Branch 2 pest control operator's license<sup>1</sup> from the Structural Pest Control Board<sup>2</sup> must show that he or she has satisfactorily passed the required board-approved courses.<sup>3</sup> Applicants for a qualified applicator license<sup>4</sup> or certification must elect to be examined on the requirements of laws in one or more areas of specialization.<sup>5</sup>

Chapter 298 allows applicants for licensing or certification as qualified applicators, and applicants for a Branch 2 pest control operator's license to choose to be trained in the handling, control, and removal techniques of Africanized honey bees.<sup>6</sup> Chapter 298 also authorizes the development of a training program to be developed by the Pest Control Operators of California,<sup>7</sup>

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1. See CAL. BUS. & PROF. CODE § 8560(a)(1) (West Supp. 1994) (authorizing Branch 2 pest control operators to work in general pest control, excluding fumigation with lethal or poisonous gases); *id.* § 8561 (West Supp. 1994) (mandating that the holder of a Branch 2 operator's license must be at least 18 years of age and have passed the appropriate examination); *id.* § 8562 (West Supp. 1994) (requiring applicants for an original operator's license to submit an application including the name of the applicant, proof that the applicant has at least the minimum years of actual experience in the employ of a registered company in the particular branch for which he or she applied, a designation of the branch in which the license is sought, and the proper fees); *id.* § 8565(a)-(g) (West Supp. 1994) (requiring the Structural Pest Control Board to ascertain by written examination that all applicants for operator's licenses are qualified in the use of the English language, the building and safety laws of the state, the labor laws of the state, the use of poisonous and other dangerous chemicals if such knowledge is required by the branch for which the applicant is applying, the theory of pest control, and other state safety laws and measures reasonably within the scope of the branch for which he or she applied).

2. See *id.* §§ 8520, 8525 (West Supp. 1994) (creating the Structural Pest Control Board, and providing that it has the authority to establish and enforce any reasonably necessary rules and regulations relating to the practice of pest control).

3. *Id.* § 8565.5(b) (West Supp. 1994); see *id.* (listing the required board-approved courses as: pesticides, pest identification and biology, contract law, rules and regulations, and business practices); see also *id.* § 8562(b) (West Supp. 1994) (requiring an applicant to possess two years of actual experience in the employ of a registered company in the particular branch for which the applicant desires to be licensed).

4. See CAL. FOOD & AGRIC. CODE § 12201.1 (West Supp. 1994) (providing that it is unlawful for anyone to act in a supervisory position of a pest control business without a qualified applicator license); *id.* § 12203 (amended by Chapter 298) (requiring that applicants for a qualified applicator license be examined on the requirements of laws and regulations concerning the use of pesticides); *id.* § 12204 (West Supp. 1994) (authorizing the director of the Department of Pesticide Regulation to issue a license to all applicants who meet the requirements for a qualified applicator license).

5. *Id.* §§ 12203, 14153 (amended by Chapter 298).

6. CAL. BUS. & PROF. CODE § 8565.6 (enacted by Chapter 298); CAL. FOOD & AGRIC. CODE §§ 12203(b), 14153(b) (amended by Chapter 298).

7. See PCOC Launches Training Program to Prepare for Arrival of "Killer" Bees, BUS. WIRE, Jan. 18, 1994, at 2, available in LEXIS, News Library, Curnws File (describing the Pest Control Operators of California as a non-profit organization that represents over 70% of the state's licensed pest control operators, and their efforts to deal with the Africanized honey bee).

which would provide instruction on the handling, control, and removal techniques of Africanized honey bees.<sup>8</sup> Chapter 298 would require the providers of such training to issue a certificate to each person who completes the training, and to maintain a record of those who have completed the training during the past three years.<sup>9</sup>

Chapter 298 also authorizes the development of programs statewide to train beekeepers in the maintenance of colonies that are free of Africanized honey bees.<sup>10</sup> Chapter 298 designates any hive which is not occupied by a live colony and which is accessible to bees to be a public nuisance.<sup>11</sup> Chapter 298 also permits the commissioner to deem such hives not to be a public nuisance if it is determined to be free of aggressive and diseased bees.<sup>12</sup>

#### INTERPRETIVE COMMENT

Chapter 298 was proposed to address the public health issue<sup>13</sup> of Africanized honey bees, also known as killer bees, which are migrating towards California from Mexico and Arizona.<sup>14</sup> The bees are expected to have an effect on agriculture, tourism, and recreation, and additionally pose a significant risk to the

8. CAL. BUS. & PROF. CODE § 8565.6 (enacted by Chapter 298); CAL. FOOD & AGRIC. CODE §§ 12203(c), 14153(c) (enacted by Chapter 298). *See generally* Senate Governmental Affairs: Hearings on Harmful Non-Indigenous Species in the U.S., 103d Cong., 2d Sess. (1994) (statement of Dewey M. Caron, Professor of Entomology, University of Delaware) (providing a general overview of the Africanized honey bee problem in the United States, Mexico, and South and Central America, as well as a brief summary of the U.S. government's efforts to fight the problem). Professor Caron reports that the Africanized honey bee was originally imported to Brazil from eastern Africa and that because of the species relatively increased migratory and defensive tendencies, the Africanized honey bee has changed the characteristics of the other bee species it has come into contact with, rather than becoming domesticated, as was hoped to occur. *Id.* Furthermore, Professor Caron predicts that the species will continue its migration north from South and Central America, and eventually inhabit a "smile" shaped pattern upward along both coasts and connected along the southern border of the United States. *Id.*

9. CAL. FOOD & AGRIC. CODE §§ 12203(c)(1)-(2), 14153(c)(1)-(2) (enacted by Chapter 298).

10. *Id.* § 29320 (enacted by Chapter 298).

11. *Id.* § 29321(a) (enacted by Chapter 298).

12. *Id.* § 29321(b) (enacted by Chapter 298).

13. *See Battle with Killer Bees Urged*, SACRAMENTO BEE, June 7, 1994, at B3 (reporting that the Los Angeles County Agriculture Commissioner urged the Board of Supervisors to spend more than a quarter million dollars to prepare for the arrival of the killer bees).

14. ASSEMBLY COMMITTEE ON AGRICULTURE, COMMITTEE ANALYSIS OF SB 250, at 2 (May 9, 1994); cf. HB 2001, 41st Leg., 8th Spec. Sess., 1994 ALS 1, § 31 (1994) (setting aside \$300,000 for an Africanized honey bee program). *See generally* John Gilardi, *Deadly Killer Bee Swarms Head North in Texas*, REUTERS, Apr. 21, 1992, available in LEXIS, News Library, Arcnws File (stating that the bees are migrating north from Mexico into southern Texas and should continue moving north into central Texas because of the warm, wet tropical climate there); Robert McAdams, *The Amazing Spread of African Bees*, SMITHSONIAN, Aug. 1991, at 10 (stating that in one of the most remarkable biological events of the century, the Africanized honey bee has spread all the way from South America, through Central America, and into Mexico and Texas). Somewhere in the United States there is a geographic or climatic boundary that is expected to halt the northward migration of the species. *Id.*

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public's safety.<sup>15</sup> Chapter 298 authorizes the Department of Pesticide Regulation<sup>16</sup> to develop or sanction training programs in the handling and removal of Africanized honey bees, and requires the Department of Pesticide Regulation to maintain a list of persons who have completed such training in the last three years.<sup>17</sup>

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15. S.J. Res. 20, 1993-1994 Leg., Reg. Sess., (1993) (enacted) (stating that the imminent arrival of the Africanized honey bee poses a threat to the long-term health and economic vitality of California agriculture). *See generally* Tim Landis, *It Had to be Said. "Bzzzzz. This is the Honey Bee Bill,"* GANNETT NEWS SERVICE, Apr. 14, 1993, available in LEXIS, News Library, Curmws File (stating that the U.S. Department of Agriculture is seeking to require all states to have the same standards for the transportation of bees in order to contain the spread of killer bees).

16. *See* CAL. FOOD & AGRIC. CODE § 11451 (West Supp. 1994) (providing that there is a Department of Pesticide Regulation within the California Environmental Protection Agency); *see also id.* § 11454 (West Supp. 1994) (defining the powers, functions, and responsibilities of the Department of Pesticide Regulation); *id.* § 11471 (West Supp. 1994) (creating the Department of Pesticide Regulation Fund).

17. *Id.* § 14153(c) (amended by Chapter 298); *see* ASSEMBLY COMMITTEE ON AGRICULTURE, COMMITTEE ANALYSIS OF SB 250, at 1 (May 9, 1994) (stating that the Department of Pesticide Regulation would sanction training programs, and would be required to maintain a list of persons who have completed the training).

