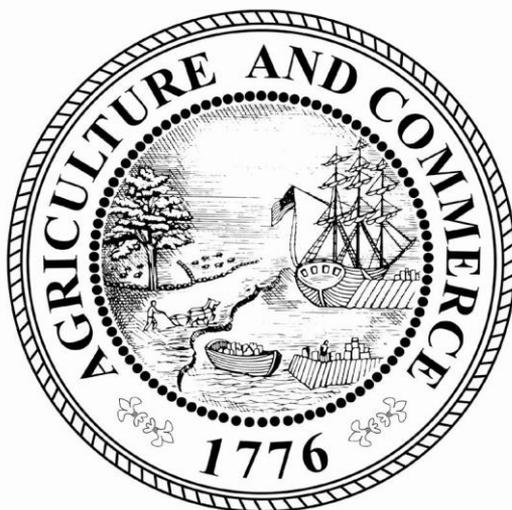


Structural Pest Control Act of 1955



Gary W. Black
Commissioner of Agriculture
Secretary to the Structural Pest Control Commission

O.C.G.A. TITLE 43 Chapter 45

GEORGIA CODE
amended 2003

TITLE 43. PROFESSIONS AND BUSINESSES
CHAPTER 45. PERSONS ENGAGED IN STRUCTURAL PEST
CONTROL

O.C.G.A. TITLE 43 Chapter 45

CHAPTER 45
PERSONS ENGAGED IN STRUCTURAL PEST CONTROL

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CHAPTER 45

PERSONS ENGAGED IN STRUCTURAL PEST CONTROL

§ 43-45-1. Short title

This chapter may be cited as the "Structural Pest Control Act."

HISTORY: Ga. L. 1955, p. 564, § 1.

§ 43-45-2. Definitions

As used in this chapter, the term:

(1) "Applicant" means any persons or any person in charge of any individuals, firm, partnership, corporation, association, or any other organization or any combination thereof making application for a license to engage in operations regulated by this chapter, or any other person making application for certification or registration under this chapter.

(2) "Application of a pesticide under the direct supervision of a certified operator" means, unless otherwise prescribed by its labeling or by regulations of the Commissioner, the application of a pesticide by a competent person acting under the instructions and control of a certified operator who is available if and when needed, even though such certified operator is not physically present at the time at which and the place the pesticide is applied.

(3) "Bond" means a written instrument issued or executed by a bonding, surety, or insurance company licensed to do business in this state, or otherwise approved by the commission, guaranteeing the fulfillment of the agreement between the licensee or business entity and his customer.

(4) "Branch office" means any place of doing business which has two or more employees engaged in the control of insect pests, rodents, or wood-destroying organisms.

(5) "Certified operator" means any individual who has been determined competent to use or supervise the use of pesticides, including restricted use pesticides or state restricted pesticide uses, as defined in this chapter, in the structural pest control category or categories in which he is currently licensed.

(6) "Commission" means the State Structural Pest Control Commission.

(7) "Commissioner" means the Commissioner of Agriculture of this state.

(8) "Employee" means any person employed by a licensee with the exception of clerical, janitorial, or office maintenance employees, or those employees performing work completely disassociated with the control of insects, pests, and rodents and the control of wood-destroying organisms.

(9) "Fumigant" means any substance which by itself or in combination with any other substance emits or liberates a gas or gases, fumes, or vapors, which gas or gases, fumes, or vapors when liberated and used will destroy vermin, rodents, insects, and other pests, but are usually lethal, poisonous, noxious, or dangerous to human life.

(10) "Insecticides" means substances, not fumigants, under whatever name known, used for the destruction or control of insects and similar pests.

(11) "Licensee" means a business entity engaged in the business of structural pest control which holds a valid license issued under this chapter.

(12) "Pesticide" means attractants, fumigants, fungicides, insecticides, rodenticides, and repellants.

(13) "Registered employee" means an employee registered as provided by this chapter.

(14) "Repellants" means substances, not fumigants, under whatever name known, which may be toxic to insects and related pests, but generally employed because of their capacity for preventing the entrance or attack of pests.

(15) "Restricted use pesticide" means any attractant,

fumigant, fungicide, insecticide, rodenticide, or repellent whose label bears one or more uses which have been classified as restricted by the administrator, Environmental Protection Agency, or any use of these pesticides which, when used as directed or in accordance with widespread and commonly recognized practice, the Commissioner determines, subsequent to a hearing, requires additional restrictions for that use to protect the environment, including man, lands, beneficial insects, animals, crops, and wildlife, other than pests.

(16) "Rodenticides" means substances, not fumigants, under whatever name known, whether poisonous or otherwise, used for the destruction or control of rodents.

(16.5) "Secretary" means the Commissioner of Agriculture in his capacity as secretary of the State Structural Pest Control Commission.

(17) "Structural pest control" means control of wood-destroying organisms or fumigation; the identification of infestations or infections; the making of inspections; the use of pesticides, including insecticides, repellents, rodenticides, fumigants, and other substances, and the use of mechanical devices of structural modifications under whatever name known for the purpose of preventing, controlling, and eradicating insects, vermin, rodents, and other pests in household structures, commercial buildings, and other structures, including adjacent outside areas; and all phases of fumigation, including treatments of products by vacuum fumigation and the fumigation of railroad cars, trucks, ships, and airplanes.

HISTORY: Ga. L. 1955, p. 564, § 2; Ga. L. 1957, p. 299, § 2; Ga. L. 1960, p. 813, § 1; Ga. L. 1976, p. 308, § 1; Ga. L. 1977, p. 701, §§ 1-5; Ga. L. 1983, p. 739, § 1.

§ 43-45-3. Creation of commission; composition; vacancies; number of members who may represent a single business entity

There is created a State Structural Pest Control Commission to consist of seven members, three of whom shall be residents of this state who are engaged in the pest control industry and who are certified operators under this chapter. Such members shall

be appointed by the Commissioner. One member shall be the head of the Department of Entomology of the University of Georgia, ex officio, or some qualified person of that department designated by him or her. One member shall be the Commissioner of Agriculture of this state or the Commissioner's designee; one member shall be the commissioner of human resources, ex officio, or some qualified person designated by him or her; and one member shall have no connection whatsoever with the pest control industry but shall have a recognized interest in consumer affairs and in consumer protection concerns. The Commissioner shall fill any vacancies that may occur in the appointive membership of the commission. No business entity shall be represented by more than one member on the commission at any time.

HISTORY: Ga. L. 1955, p. 564, § 3; Ga. L. 1960, p. 813, § 2; Ga. L. 1976, p. 308, § 2; Ga. L. 1978, p. 999, § 1; Ga. L. 1980, p. 1446, § 1; Ga. L. 1983, p. 739, § 2; Ga. L. 1998, p. 191, § 1.

§ 43-45-4. Terms of office; eligibility of member to succeed himself

The appointive members of the commission shall be appointed originally for a term of one, two, and three years; thereafter successors shall be appointed for a term of three years. All such members shall serve for the specified term and until their successors are appointed and qualified. There shall be no disqualification of any member appointed to succeed himself.

HISTORY: Ga. L. 1955, p. 564, § 4; Ga. L. 1960, p. 813, § 3.

§ 43-45-5. Election of officers; action by vote of four members; meetings

The commission shall elect from its membership a chairman and a vice-chairman, who shall be elected annually by the members of the commission by a majority vote. No action shall be taken without four votes in accord. The commission shall determine the frequency of its meetings.

HISTORY: Ga. L. 1955, p. 564, § 5; Ga. L. 1966, p. 171, § 1; Ga. L.

1978, p. 999, § 2.

§ 43-45-6. Reimbursement of commission members

Each member of the commission shall be reimbursed as provided for in subsection (f) of Code Section 43-1-2.

HISTORY: Ga. L. 1955, p. 564, § 7; Ga. L. 1966, p. 171, § 4.

§ 43-45-7. Commissioner as secretary of commission

The Commissioner shall be secretary of the commission. The secretary shall issue such licenses and certificates and perform such other duties as the commission shall direct in order to carry out this chapter.

HISTORY: Ga. L. 1955, p. 564, § 8; Ga. L. 1983, p. 739, § 3.

§ 43-45-8. General powers and duties of commission

The commission is authorized and required to:

(1) Make such reasonable rules and regulations as may be necessary to protect the interest, health, and safety of the public and to ensure the efficiency of licensees, operators, and registered employees to carry out this chapter. Such rules and regulations shall not be effective until a public hearing shall have been granted and notification of such a hearing has been made to all licensees and certified operators;

(2) Provide for an appropriate and written examination for applicants and any other appropriate means of examination for applicants. The frequency of such examination shall be at the discretion of the commission, based upon the number of applications received, but not less than two such examinations shall be held annually. The commission shall give one examination per phase of structural pest control for one fee if the applicant seems to qualify. The examination fee shall be in an amount established by the commission for each applicant who makes application to take the examination to become a

certified household pest control operator, wood-destroying organism control operator, or fumigator. An examination may be taken for the payment of one fee; and, in case the applicant shall not be certified, he or she shall have the right to take the examination again at the next scheduled examination, upon the payment of an additional fee in an amount established by the commission. In case certification is again denied, the applicant must wait a full year before reapplication is made. Thereafter, one full year must elapse before subsequent application may be made;

(3) Make an annual report to the Governor of the activities, expenditures, receipts, and other matters pertinent to the operation of the commission, a copy of which shall be filed by the Commissioner and the commission;

(4) Issue licenses to each place of business of each business entity qualifying under this chapter. Such licenses shall be renewable biennially and the license fee shall be in an amount established by the commission. In addition to the license fee per se, the commission is authorized to establish a research fee on each license in an amount sufficient to provide a minimum of \$30,000.00 per year and up to \$50,000.00 per year for the purpose of supporting the work of a research position in urban pest control at the University of Georgia. As a source of information for considering the amount of the research fee to be established, the commission shall be furnished within 30 days of the end of each fiscal year by the chairman of the Division of Entomology at the University of Georgia with a statement of the total costs associated with the research position for the preceding year and a description of the urban research projects to be conducted over the following two fiscal years. The commission shall advise the chairman of the Entomology Division at the University of Georgia on the projects proposed to be conducted; however, the final selection of projects shall be the sole responsibility of the chairman of the entomology division. Information provided to the commission on costs associated with the position shall be for advisory purposes only and the commission shall be solely responsible for establishment and collection of the research fee within the limits established above and for transferring such fees to the University of Georgia. If the University of Georgia discontinues such research position at any time, the commission shall discontinue its collection of the research fee and any unexpended funds held by the commission shall be transferred to the state treasury.

(5) Issue certificates, certifying the qualification of operators, to those persons qualifying under this chapter. The certification fee shall be in an amount established by the commission; such certification shall be renewable biennially unless revoked or canceled for cause, subject to reeducation or such other requirements as the commission may impose by regulation to ensure that certified operators continue to meet the needs of changing technology and to assure a continuing level of competence and ability to operate safely and properly;

(6) Issue certificates of registration to employees under this chapter. The secretary shall collect for such registration a fee in an amount established by the commission for each such registration. The commission is authorized to require a fee in an amount established by the commission for each change, cancellation, renewal, or issuance of a duplicate registration card;

(7) Adopt a seal and alter the same at the pleasure of the commission;

(8) Hold hearings, subpoena witnesses, and compel the production of documents and papers as shall be necessary in the performance of the duties of the commission;

(9) Enter into reciprocal agreements with comparable agencies of other states that have requirements substantially equivalent to this state, whereby persons licensed or certified by such other states may be issued a license or certified by the commission without an examination, provided that such other states issue licenses or certifications without examination to persons licensed or certified by the commission; and

(10) Aid and assist the Commissioner in the enforcement of this chapter in an advisory capacity as to matters pertaining to the enforcement of this chapter.

HISTORY: Ga. L. 1955, p. 564, § 6; Ga. L. 1957, p. 299, § 4; Ga. L. 1960, p. 813, § 4; Ga. L. 1966, p. 171, §§ 2, 3; Ga. L. 1976, p. 308, §§ 3-5; Ga. L. 1977, p. 701, §§ 6-8; Ga. L. 1983, p. 739, § 4; Ga. L. 1984, p. 22, § 43; Ga. L. 1991, p. 1423, § 1; Ga. L. 1996, p. 1072, § 1.

§ 43-45-9. Examination for certification as an operator; evidence from applicants as to employment of qualified operators; insurance requirements; required statements in contracts for service.

(a) All applicants for examination for certification as an operator must have a knowledge of the practical and scientific facts underlying the practice of structural pest control, control of wood-destroying organisms, and fumigation and the necessary knowledge and ability to recognize and control those hazardous conditions which may affect human life and health. The commission may refuse to examine anyone convicted of a crime involving moral turpitude.

(b) Each applicant must present satisfactory evidence to the commission concerning his or her qualifications which must include at least one of the following:

(1) Two years' actual experience relating to service, one year of which must have been, within the last five years, as an employee, employer, or owner-operator in the field of household pest control, control of wood-destroying organisms, or fumigation, for whichever license is applied for;

(2) One or more years' specialized training in household pest control, control of wood-destroying organisms, or fumigation, or any combination thereof, under university or college supervision as a substitute for practical experience at the ratio of one year of schooling for one-fourth year practical experience; or

(3) A degree from a recognized college or university with advanced training or major in entomology, sanitary or public health engineering, or related subjects, including sufficient practical experience of structural pest control work under proper supervision.

(c) Each applicant for a license shall present evidence satisfactory to the commission that the business entity desiring the license has in its employ one or more qualified operators to engage in the business of structural pest control as provided in this chapter.

(d) Each applicant for a license shall submit with the application and each licensee shall submit at the time of renewal of the

license a certificate of insurance verifying coverage from either an insurance company authorized to do business in this state or a surplus lines broker licensed by the Commissioner of Insurance. Such coverage shall be in the amount of not less than \$50,000.00 per occurrence, with a minimum annual aggregate of \$200,000.00 for all occurrences, and shall insure the licensee's business against bodily injury and property damage claims. The insurance shall also cover claims for pollution liability caused by sudden and accidental discharge or release of pollutants.

(e) In addition to the insurance coverage specified in subsection (d) of this Code section, each licensee for control of wood-destroying organisms shall submit on July 1, 2002, or within 30 days thereafter, each applicant for a license for control of wood-destroying organisms shall submit with the application for a license, and each licensee for control of wood-destroying organisms shall submit at the time of renewal of the license a certificate of insurance verifying coverage during the term of the license from either an insurance company authorized to do business in this state or a surplus lines broker licensed by the Commissioner of Insurance. Such coverage shall be in the amount of not less than \$100,000.00 per occurrence, with a minimum annual aggregate of \$500,000.00 for all occurrences and shall insure the licensee's business against bodily injury and property damage claims arising from the licensee's treatment or services for control of wood-destroying organisms including errors and omission coverage on an occurrence basis.

(f) No license shall be issued or renewed and no business license shall be issued by a political subdivision pursuant to Code Section 43-45-15 until the insurance requirements of this Code section are met. The minimum insurance coverages required by this Code section must be maintained during the entire period of time a license is in force. Policies shall contain a cancellation provision whereby notification of cancellation is made by the insurer to and actually received by the commission, through the Structural Pest Control Section of the Department of Agriculture, not less than 30 days prior to the cancellation. Any license or renewal of a license shall be suspended automatically by operation of law if the insurance coverages are not in force or are canceled for any reason, unless equivalent insurance is then in effect. It shall be the duty of the licensee to notify the commission that equivalent insurance is in effect and furnish proof of such insurance to the commission. If the license or

renewal license is not reinstated within three months, it shall be revoked by operation of law without a hearing.

(g) At the time of the issuance of any contract for treatment or service, a statement shall appear in the contract, in the same size type as other terms and conditions, stating the following:

"The Georgia Structural Pest Control Act" requires all pest control companies to maintain insurance coverage. Information about this coverage is available from this pest control company.

HISTORY: Ga. L. 1955, p. 564, § 10; Ga. L. 1960, p. 813, § 6; Ga. L. 1966, p. 171, §§ 6, 7; Ga. L. 1976, p. 308, §§ 10-12; Ga. L. 1977, p. 701, § 11; Ga. L. 1994, p. 1245, § 1; Ga. L. 2002, p. 856, § 1; Ga. L. 2003, p. 414, § 1.

§ 43-45-10. Registration of employees and agents; registration certificates; employee training

The license holder shall register with the secretary the names of all employees and agents within 30 days of their employment. Upon submission by the license holder of application and the appropriate fee established by the commission, registration certificates shall be issued by the secretary. Such certificates shall be carried on the person of the registered employee at all times during performance of work and shall be displayed upon request to any person for whom work is being performed. The license holder shall be responsible for training the registered employee in the work he is to perform. Employees covered by this Code section include servicemen, salesmen, estimators, and other employees. Such registration cards shall be effective only while the employee shall remain in the employment of the license holder by whom registration was obtained, and only for such time as the license of the license holder remains valid.

HISTORY: Ga. L. 1955, p. 564, § 14; Ga. L. 1957, p. 299, § 7; Ga. L. 1960, p. 813, § 10; Ga. L. 1983, p. 739, § 5.

§ 43-45-11. Transfer of licenses, certifications, and registrations; procedure upon change of status of licensee

A license, certification, or registration shall not be

transferable. When there is a change in the status of a licensee, the licensee shall notify the commission immediately; and the licensee shall have not more than 90 days or until the next meeting of the commission following the expiration of the 90 day period to comply with this chapter as to the employment of a certified operator.

HISTORY: Ga. L. 1955, p. 564, § 12; Ga. L. 1960, p. 813, § 8.

§ 43-45-12. Suspension, cancellation, and revocation of licenses, certifications, and registrations; unlawful acts

(a) A license, certification, or registration may be suspended, canceled, or revoked by the Commissioner, after notice and hearing, for any violation of this chapter. However, the certification of any certified operator who fails to renew as required by regulations adopted by the commission shall automatically become revoked through operation of law upon the date of expiration of the certification.

(b) Any licensee, certified operator, or registered employee who shall:

(1) Make representations for the purpose of defrauding; deceive or defraud another;

(2) Make a false statement with knowledge of its falsity for the purpose of inducing another to act thereon to his detriment;

(3) Use methods or materials that are not suitable; or use any fumigant, insecticide, rodenticide, attractant, or repellent in a manner inconsistent with its labeling or other restrictions imposed by the commission or the Commissioner;

(4) Fail to give the commission or its authorized representative, or the enforcing agency, upon demand or request, true information regarding methods and materials used, work performed, or other information essential to administration of this chapter;

(5) Make any intentional misrepresentation of a material fact in an application for a license, certification, or registration; or

(6) Fail to perform, report, or submit the appropriate fees consistent with rules and regulations promulgated pursuant to this chapter

shall be guilty of a misdemeanor for the first offense. For the second or any subsequent offense, any person violating this chapter shall be guilty of a misdemeanor of a high and aggravated nature and, upon conviction, shall be punished as provided in Code Section 17-10-4.

HISTORY: Ga. L. 1955, p. 564, § 11; Ga. L. 1957, p. 299, § 6; Ga. L. 1960, p. 813, § 7; Ga. L. 1976, p. 308, § 13; Ga. L. 1977, p. 701, § 12; Ga. L. 1983, p. 739, § 6; Ga. L. 2002, p. 856, § 2.

§ 43-45-13. Restrictions on advertising

(a) No licensee or business entity represented by the licensee shall advertise or in any way use the words "bond" or "bonded" in any manner in connection with his pest control business operations unless the licensee or business entity shall have an instrument then in force, or that is available to each customer, that comes within the definition of a bond as defined in Code Section 43-45-2. Each licensee shall submit proof of such instrument to the commission.

(b) Any person who shall claim that inspections or permits, or both, are required, authorized, or endorsed by the commission or any agency of the state or federal government shall be guilty of a violation of this chapter. No reference shall be made by any licensee in any form of advertising that would indicate the approval, endorsement, or recommendation of the commission or any agency of the state or federal government.

HISTORY: Ga. L. 1957, p. 299, § 5; Ga. L. 1982, p. 3, § 43.

§ 43-45-14. Designation of resident agents by nonresident licensees and certified operators

Every nonresident licensee or certified operator shall designate a resident agent upon whom service of notice or process may be made to enforce this chapter or any liabilities arising from operations under this chapter. In the event no

resident agent is designated, the Secretary of State shall be the resident agent of the nonresident for services or process.

HISTORY: Ga. L. 1955, p. 564, § 17.

§ 43-45-15. Issuance of business license by municipalities or other political subdivisions; local business license fees and occupation taxes

(a) No municipal corporation or other political subdivision of the state may issue a business license to any person to engage in the business of structural pest control unless the applicant therefor shall submit proof of his compliance with this chapter.

(b) Persons licensed under this chapter shall be subject to Article 1 of Chapter 13 of Title 48.

HISTORY: Code 1981, § 43-45-15, enacted by Ga. L. 1993, p. 1292, § 3.

§ 43-45-16. Promulgation of regulations

The commission and the Commissioner may promulgate such regulations as are necessary to establish, obtain approval of, and implement a state plan for certification of applicators, pursuant to Section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended.

HISTORY: Ga. L. 1976, p. 308, § 6; Ga. L. 1994, p. 97, § 43.

§ 43-45-17. Enforcement authority of Commissioner

The Commissioner is authorized and directed to enforce this chapter and rules and regulations promulgated under this chapter and is authorized to utilize any employee of the Department of Agriculture. The Commissioner may inspect any materials used or work performed by persons engaged in the business of household pest control, wood-destroying organism control, or fumigation in this state. The Commissioner shall be authorized, after notice and hearing, to revoke, suspend, or

cancel any license, certification, or registration issued under this chapter for a violation of this chapter or the rules and regulations promulgated under this chapter, for conviction or imposition of a final order imposing a civil penalty pursuant to Section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, or for conviction of a crime involving moral turpitude. It is the intent and purpose of this chapter to provide for the enforcement of this chapter by the Commissioner and to provide for the licensing, certification, and registration of those persons engaged in the business of structural pest control by the commission. It is the further intent of this chapter to provide that the commission shall advise the Commissioner with respect to the enforcement of this chapter. In connection therewith, the Commissioner, his designated agent, or a designated hearing officer is authorized to exercise the authority granted the commission to hold hearings, subpoena witnesses, and compel the production of documents and papers.

HISTORY: Ga. L. 1955, p. 564, § 16; Ga. L. 1960, p. 813, § 11; Ga. L. 1966, p. 171, § 8; Ga. L. 1976, p. 308, § 14; Ga. L. 1977, p. 701, § 13; Ga. L. 1994, p. 97, § 43.

§ 43-45-18. Applicability of the "Georgia Administrative Procedure Act."

Proceedings under this chapter shall be governed by Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

HISTORY: Ga. L. 1955, p. 564, § 18; Ga. L. 1960, p. 813, § 13.

§ 43-45-19. Inspection of licensees' records by Commissioner

The Commissioner or his agents shall have during regular business hours the right to see, examine, and inspect any and all records of any licensee pertaining to the operations of the licensee within the provisions of this chapter.

HISTORY: Ga. L. 1957, p. 299, § 8; Ga. L. 1960, p. 813, § 12.

§ 43-45-20. Injunctions

The Commissioner may institute a civil action to enjoin any violation of this chapter or any rule or regulation promulgated under this chapter. A violation of this chapter or any rule or regulation promulgated pursuant to this chapter is declared to constitute a public nuisance, and such action for injunction may be maintained notwithstanding the existence of other legal remedies and notwithstanding the pendency or successful completion of a criminal prosecution.

HISTORY: Ga. L. 1957, p. 299, § 11; Ga. L. 1960, p. 813, § 15; Ga. L. 1994, p. 97, § 43.

§ 43-45-21. Exceptions to operation of chapter

(a) This chapter shall not apply to any person doing work on his own property or to any regular employee of any person, firm, or corporation doing work on the property of such person, firm, or corporation under the direct supervision of the person who owns or has charge of the property on which the work is being done; provided, however, that nothing contained in this chapter shall authorize any person to endanger the public health or safety through the use of any pesticide or other substance for the purpose of structural pest control or through the violation of any other state or federal law or regulation.

(b) This chapter shall not apply to agencies of the federal, state, county, or municipal governments or to agents thereof in the performance of official duties.

HISTORY: Ga. L. 1955, p. 564, § 9; Ga. L. 1957, p. 299, § 5; Ga. L. 1966, p. 171, § 5; Ga. L. 1976, p. 308, § 9; Ga. L. 1977, p. 701, § 10.

§ 43-45-22. Authority to refuse license to applicant convicted of violation of chapter

Nothing in this chapter shall require the commission to issue a license to an applicant who has been convicted of a violation of this chapter.

HISTORY: Ga. L. 1955, p. 564, § 20; Ga. L. 1957, p. 299, § 10.

§ 43-45-23. Interference with or obstruction of inspector

Any person who shall interfere with or obstruct any inspector or other employee or agent of an authorized enforcement agency in the performance of his duties shall be guilty of a misdemeanor.

HISTORY: Ga. L. 1957, p. 299, § 12.

§ 43-45-24. Engaging in pest control business without a license; engaging in field work or soliciting accounts without registering or obtaining certification

(a) Any person, firm, corporation, association, or any other organization or combination thereof who shall engage in, solicit, supervise, advertise, represent himself to be in, hold himself out as being in, or purport to be, a manager, owner, operator-owner, operator or agent (other than a registered employee), or agent in household pest control, control of wood-destroying organisms, fumigation, or related work, without having first secured a license issued for that purpose by the commission, shall be guilty of a misdemeanor for the first offense. For the second or any subsequent offense, any person violating this chapter shall be guilty of a misdemeanor of a high and aggravated nature and, upon conviction, shall be punished as provided in Code Section 17-10-4. Each violation shall constitute a separate offense.

(b) Any certified operator, registered employee, or employee or agent of a licensee who shall engage in field work or solicit accounts covered by this chapter and the rules and regulations promulgated hereto, without having first registered or obtained certification under this chapter, shall be guilty of a misdemeanor.

HISTORY: Ga. L. 1955, p. 564, § 9; Ga. L. 1957, p. 299, § 5; Ga. L. 1960, p. 813, § 5; Ga. L. 1976, p. 308, §§ 7, 8; Ga. L. 1977, p. 701, § 9; Ga. L. 2002, p. 856, § 3.

§ 43-45-24.1. Civil penalty; negotiated settlements; hearings and procedure; disposition of penalties; judicial review; judgments

(a) Any licensee, operator, registered employee, or any other person violating this chapter, any rule or regulation of the commission or the Commissioner promulgated pursuant to this chapter, or any condition or limitation of any license or registration imposed pursuant to this chapter may be liable for a civil penalty of not more than \$10,000.00 per violation. Such penalty may be imposed in addition to or in lieu of the suspension, cancellation, or revocation of a license, certification, or registration or any other enforcement action authorized by this chapter or any other provision of law. The consent of the entity or person against whom the penalty is to be imposed shall not be required for the imposition of such penalty.

(b) Whenever the Commissioner determines that any licensee, operator, registered employee, or any other person has violated this chapter, any rule or regulation of the commission or the Commissioner promulgated pursuant to this chapter, or any condition or limitation of any license or registration imposed pursuant to this chapter, the Commissioner may issue an administrative order imposing a civil penalty as provided in subsection (a) of this Code section for the violation without a hearing unless a person subject to the order petitions for a hearing. Any person who is aggrieved or adversely affected by such order shall, upon written petition within ten days after the service of the order on such person, have a right to a hearing before a hearing officer appointed by the Commissioner. Failure to petition for a hearing within such time period shall constitute a waiver of the right to a hearing. The order and notice shall be served in person by the Commissioner or the Commissioner's agent or by certified mail or statutory overnight delivery, return receipt requested. In the case of a licensee, operator, or registered employee, receipt of the order and notice will be conclusively presumed five days after the mailing of the order by certified mail or statutory overnight delivery, return receipt requested, to the address provided by such person in such person's most recent application. The order shall contain or be accompanied by a notice of opportunity for a hearing which states that a hearing must be petitioned for in writing within ten

days of the service of the order. If a hearing is petitioned for within such ten-day period, the administrative order is stayed pending a final decision by the hearing officer. Upon receipt of a written petition for a hearing, the Commissioner shall schedule the hearing before a hearing officer appointed by the Commissioner, unless postponed by mutual consent, within 30 days of the receipt by the Commissioner of the petition. The Commissioner shall give the person petitioning for the hearing notice of the time and place of the hearing by certified mail or statutory overnight delivery to the address specified in the petition for a hearing at least 15 days prior to the date of the hearing. The hearing before the hearing officer shall be conducted in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," and the rules and regulations adopted by the commission or the Commissioner pursuant thereto. Any party to the hearing, including the Commissioner, shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50.

(c) All civil penalties recovered by the Commissioner as provided in this Code section shall be paid into the state treasury.

(d) Informal disposition or settlement may be made of any contested case or action by stipulation, agreed settlement, consent order, or default.

(e) Except as otherwise provided in this Code section or by any other provision of this chapter, all proceedings under this Code section shall be conducted in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," and the rules and regulations adopted by the commission and the Commissioner pursuant thereto.

(f) Any order of the hearing officer issued after a hearing as provided in this Code section or any order of the Commissioner issued pursuant to this Code section, either unappealed from as provided in this Code section or affirmed or modified on any review or appeal pursuant to this Code section, and from which no further review is taken or allowed under this Code section, may be filed, as unappealed from or as affirmed or modified, if reviewed or appealed, by certified copy from the Commissioner in the superior court of the county wherein such person under order resides, or if such person is a corporation in the county wherein the corporation maintains its principal place of business, or in the county wherein the violation occurred or in which

jurisdiction is appropriate, whereupon such superior court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same, as though such judgment had been rendered in an action duly heard and determined by such court.

HISTORY: Code 1981, § 43-45-24.1, enacted by Ga. L. 1994, p. 1245, § 2; Ga. L. 1999, p. 81, § 43; Ga. L. 2000, p. 1589, § 3.

§ 43-45-25. Penalty

Except as otherwise provided in this chapter, any person violating this chapter shall be guilty of a misdemeanor for the first offense. For the second or any subsequent offense, any person violating this chapter shall be guilty of a misdemeanor of a high and aggravated nature and, upon conviction, shall be punished as provided in Code Section 17-10-4. Each such violation shall constitute a separate offense.

HISTORY: Ga. L. 1955, p. 564, § 21; Ga. L. 2002, p. 856, § 4.

§ 43-45-26. Termination

Repealed by Ga. L. 1992, p. 3137, § 35, effective July 1, 1992.