

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1080

Short Title: Structural Pest Control Amendments.

(Public)

Sponsors: Senator Albertson.

Referred to: Agriculture/Environment/Natural Resources.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE STRUCTURAL PEST CONTROL LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-65.24 reads as rewritten:

"§ 106-65.24. Definitions.

~~For the purposes of this Article, the following terms, when used in the Article or the rules and regulations, or orders made pursuant thereto, shall be construed respectively to mean:~~ As used in this Article:

(1) 'Animal' means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish.

(1a) 'Applicant for a certified applicator's identification card' means any person making application to use restricted use pesticides in any phase of structural pest control.

(2) 'Applicant for a license' means any person in charge of any individual, firm, partnership, corporation, association, or any other organization or any combination thereof, making application for a license to engage in structural pest control, control of structural pests or household pests, or fumigation operations, or any person qualified under the terms of this Article.

- 1 (3) 'Attractants' means substances, under whatever name known, which may
2 be toxic to insects and other pests but are used primarily to induce
3 insects and other pests to eat poisoned baits or to enter traps.
- 4 (3a) Repealed by Session Laws 1989, c. 725.
- 5 (3b) 'Branch Office' means any office under the management of a licensee
6 that is neither a home office nor a call office.
- 7 ~~(3b)~~(3c) 'Call office' means any office or telephone answering service other
8 than a licensee's home office which is used by a licensee to conduct
9 structural pest control work and which employs no more than one
10 individual engaged in structural pest control work.
- 11 (4) 'Certified applicator' means any individual who is certified under G.S.
12 106-65.25 as authorized to use or supervise the use of any pesticide
13 which is classified for restricted use.
- 14 (5) 'Commissioner' means the Commissioner of Agriculture of the State of
15 North Carolina.
- 16 (6) 'Committee' means the Structural Pest Control Committee.
- 17 (6a) 'Deviation' means failure of the licensee or certified applicator or
18 registered technician card holder to follow any rule adopted by the
19 Committee under provisions of this Article.
- 20 (7) 'Device' means any instrument or contrivance (other than a firearm)
21 which is intended for trapping, destroying, repelling, or mitigating any
22 pest or any other form of plant or animal life (other than man and other
23 than bacteria, virus, or other microorganism on or in living man or other
24 living animals); but not including equipment used for the application of
25 pesticides when sold separately therefrom.
- 26 (8) Repealed by Session Laws 1975, c. 570, s. 4.
- 27 (8a) 'Director' means the Director of the Structural Pest Control Division of
28 the Department of Agriculture and Consumer Services.
- 29 (9) 'Employee' means any person employed by a licensee with the
30 exceptions of clerical, janitorial, or office maintenance employees, or
31 those employees performing work completely disassociated with the
32 control of insect pests, rodents or the control of wood-destroying
33 organisms.
- 34 (9a) 'Enforcement agency' means the Structural Pest Control Division of the
35 Department of Agriculture and Consumer Services.
- 36 (10) 'Fumigants' means any substance which by itself or in combination with
37 any other substance emits or liberates a gas or gases, fumes or vapors
38 and which gas or gases, fumes or vapors when liberated and when used
39 will destroy vermin, rodents, insects, and other pests; but may be lethal,
40 poisonous, noxious, or dangerous to human life.
- 41 (11) 'Fungi' means wood-decaying fungi.

- 1 (11a) 'Home office' means the ~~licensee's principal place of business.~~ office
2 identified to the enforcement agency by a licensee as the place of
3 business to which his or her license is located or assigned.
- 4 (12) 'Insect' means any of the numerous small invertebrate animals generally
5 having the body more or less obviously segmented, for the most part
6 belonging to the class Insects, comprising six-legged, usually winged
7 forms, as for example, beetles, bugs, bees, flies, and to other allied
8 classes of arthropods whose members are wingless and usually have
9 more than six legs, as for example, spiders, mites, ticks, centipedes, and
10 sowbugs.
- 11 (13) 'Insecticides' means substances, not fumigants, under whatever name
12 known, used for the destruction or control of insects and similar pests.
- 13 (14) 'Label' means the written, printed, or graphic matter on, or attached to,
14 the pesticide or device or any of its containers or wrappers.
- 15 (14a) The term 'labeling' means all labels and other written, printed, or
16 graphic matter:
- 17 a. Upon the pesticide (or device) or any of its containers or
18 wrappers;
- 19 b. Accompanying the pesticide (or device) at any time;
- 20 c. To which reference is made on the label or in literature
21 accompanying the pesticide (or device) except when accurate
22 nonmisleading reference is made to current official publications
23 of the United States Department of Agriculture or Interior, the
24 United States Public Health Service, state experiment stations,
25 state agricultural colleges, or other similar federal institutions or
26 official agencies of this State or other states authorized by the
27 law to conduct research in the field of pesticides.
- 28 (15) 'Licensee' means ~~the designated person in charge of the business~~
29 ~~establishment or business entity, whether it be individual, firm,~~
30 ~~partnership, corporation, association or any organization, or any~~
31 ~~combination thereof, engaged in pest control work covered under the~~
32 ~~provisions of this Article. Each branch office of a business~~
33 ~~establishment is to be in charge of a person who has a license herein~~
34 ~~provided for.~~ any person qualified for and holding a license for any
35 phase of structural pest control pursuant to this Article.
- 36 (16) 'Person' means any individual, partnership, association, corporation, or
37 any organized group of persons whether incorporated or not.
- 38 (17) 'Pest' means any living organism, including but not limited to, insects,
39 rodents, birds, and fungi, which the Commissioner declares to be a pest.
- 40 (18) 'Pesticide' means any substance or mixture of substances intended for
41 preventing, destroying, repelling, or mitigating any pest.
- 42 (19) 'Registered pesticide' means a pesticide which has been registered by
43 federal and/or State agency responsible for registering pesticides.

- 1 (19a) 'Registered technician' means any individual who is required to be
2 registered with the Structural Pest Control Division under G.S. 106-
3 65.31.
- 4 (20) 'Repellents' means substances, not fumigants, under whatever name
5 known, which may be toxic to insects and related pests, but are
6 generally employed because of capacity for preventing the entrance or
7 attack of pests.
- 8 (21) 'Restricted use pesticide' means a pesticide which has been designated
9 as such by the federal and/or State agency responsible for registering
10 pesticides.
- 11 (22) 'Rodenticides' means substances, not fumigants, under whatever name
12 known, whether poisonous or otherwise, used for the destruction or
13 control of rodents.
- 14 (23) 'Structural pest control' means the control of wood-destroying organisms
15 or household pests (including, but not limited to, animals such as moths,
16 cockroaches, ants, beetles, flies, mosquitoes, ticks, wasps, bees, fleas,
17 mites, silverfish, millipedes, centipedes, sowbugs, crickets, termites,
18 wood borers, etc.), including the identification of infestations or
19 infections, the making of inspections, the use of pesticides, including
20 insecticides, repellents, attractants, rodenticides, fungicides, and
21 fumigants, as well as all other substances, mechanical devices or
22 structural modifications under whatever name known, for the purpose of
23 preventing, controlling and eradicating insects, vermin, rodents and
24 other pests in household structures, commercial buildings, and other
25 structures (including household structures, commercial buildings and
26 other structures in all stages of construction), and outside areas, as well
27 as all phases of fumigation, including treatment of products by vacuum
28 fumigation, and the fumigation of railroad cars, trucks, ships, and
29 airplanes, or any one or any combination thereof.
- 30 (24) 'Under the direct supervision of a certified applicator' means, unless
31 otherwise prescribed by its labeling, a pesticide shall be considered to
32 be applied under the direct supervision of a certified applicator if it is
33 applied by a competent person acting under the instructions and control
34 of a certified applicator who is available if and when needed, even
35 though such certified applicator is not physically present at the time and
36 place the pesticide is applied."

37 Section 2. G.S. 106-65-25 reads as rewritten:

38 "**§ 106-65.25. Phases of structural pest control; prohibited acts; license required;**
39 **exceptions.**

40 (a) The Committee shall classify license phases to be issued under this Article.
41 Separate phases or subphases shall be specified for:

- 42 (1) Control of household pests by any method other than fumigation ('P'
43 phase);

1 (2) Control of wood-destroying organisms by any method other than
2 fumigation ('W' phase); and
3 (3) Fumigation ('F' phase).
4 (b) It shall be unlawful for any person to ~~act in the capacity of a structural pest~~
5 ~~control licensee, to:~~

6 (1) ~~advertise~~ Advertise as, offer to engage in, or engage in or supervise work
7 as a manager, owner, or owner-operator in any phase of structural pest
8 control or otherwise act in the capacity of a structural pest control
9 licensee unless he the person is licensed as provided for in pursuant to
10 this Article. Article or has engaged the services of a licensee as a full-
11 time regular employee who is responsible for the structural pest control
12 performed by the company. A license is required for each phase of
13 structural pest control. No person may hold

14 (2) Hold more than one license for each phase. phase of structural pest
15 control. The licensee shall be responsible for the supervision of the
16 work performed under his license.

17 (3) Use a restricted use pesticide in any phase of structural pest control,
18 whether it be on the person's own property or on the property of another,
19 unless the person:

20 a. Qualifies as a certified applicator for that phase of structural pest
21 control; or

22 b. Is under the direct supervision of a certified applicator who
23 possesses a valid certified applicator's identification card for that
24 phase of structural pest control.

25 (4) Use or supervise the use of restricted use pesticides in demonstrating or
26 supervising a demonstration to the public of the proper use and
27 techniques of the application of pesticides or conducting field research
28 with pesticides unless:

29 a. The person possesses a valid certified applicator's identification
30 card;

31 b. The person is conducting laboratory research involving restricted
32 use pesticides; or

33 c. The person is a doctor of medicine or a doctor of veterinary
34 medicine applying restricted use pesticides as drugs or
35 medication during the course of his or her normal professional
36 practice.

37 This subdivision applies to all persons, including cooperative extension
38 specialists demonstrating pesticide products, individuals demonstrating
39 methods used in public programs, and local, State, federal, commercial,
40 and other persons conducting field research on, or using, restricted use
41 pesticides.

42 (c) ~~A licensee may not establish any office other than his home office from which~~
43 ~~more than one employee is performing structural pest control work unless a separate~~

1 ~~licensee is placed in charge of that office. It shall be unlawful for any licensee to do any~~
2 ~~of the following:~~

- 3 (1) ~~Establish, be in charge of, or manage any branch office unless the office~~
4 ~~is the home office of another licensee and the structural pest control is~~
5 ~~performed under the license of that licensee.~~
- 6 (2) ~~Fail to supervise the structural pest control performed out of the~~
7 ~~licensee's home office or any office under the licensee's management.~~
- 8 (3) ~~Allow his or her license to be used by any person or company for which~~
9 ~~he or she is not a full-time regular employee actively and personally~~
10 ~~engaged in the supervision of the structural pest control performed~~
11 ~~under the license.~~
- 12 (4) ~~Use any pesticide, material, or device prohibited by the Committee or~~
13 ~~use any approved pesticide, material, or device in a manner prohibited~~
14 ~~by the Committee.~~
- 15 (5) ~~Use or supervise the use of restricted use pesticides in a phase of~~
16 ~~structural pest control for which the person is not licensed or qualified~~
17 ~~as a certified applicator unless the person's use is under the supervision~~
18 ~~of a licensee or certified applicator certified in that phase of structural~~
19 ~~pest control.~~

20 (c1) ~~A person holding a license in any phase of structural pest control shall be~~
21 ~~responsible for the supervision of the work performed under that license. Each branch~~
22 ~~office of a business establishment engaged in structural pest control shall be managed by~~
23 ~~a person licensed pursuant to this Article. Both the licensee under whose license the~~
24 ~~structural pest control is performed and any licensee who manages or otherwise~~
25 ~~supervises the office may be held responsible for any violations of this Article or of any~~
26 ~~rule adopted by the Committee. The Committee may adopt rules that permit a licensee to~~
27 ~~establish no more than two branch offices in addition to a home office. The rules shall~~
28 ~~include provisions to ensure that the licensee can adequately supervise all structural pest~~
29 ~~control performed from the offices and under his or her license.~~

30 (d) ~~A license is not required for any person (or his the person's full-time regular~~
31 ~~employees) doing structural pest control work on his the person's own property; provided,~~
32 ~~however, that no property. No fee may be charged for structural pest control work~~
33 ~~performed by any such person.~~

34 (e) ~~Any person who uses a restricted use pesticide in any phase of structural pest~~
35 ~~control, whether it be on his own property or on the property of another, must:~~

- 36 (1) ~~Qualify as a certified applicator for that phase of structural pest control;~~
37 ~~or~~
- 38 (2) ~~Be under the direct supervision of a certified applicator possessing a~~
39 ~~valid identification card for that phase of structural pest control.~~

40 (f) ~~Persons who demonstrate to the public the proper use and techniques of~~
41 ~~application of pesticides or supervise such demonstration or conduct field research with~~
42 ~~pesticides, and in doing so, use or supervise the use of restricted use pesticides must~~
43 ~~possess a valid certified applicator's identification card. Included in the first group are~~

1 such persons as extension representatives demonstrating pesticide products and those
2 individuals demonstrating methods used on public programs. The second group includes
3 local, State, federal, commercial, and other persons conducting field research on or
4 utilizing restricted use pesticides.

5 This subsection does not apply to the following persons:

- 6 (1) Persons conducting laboratory type research involving restricted use
7 pesticides; or
8 (2) Doctors of medicine and doctors of veterinary medicine applying
9 restricted use pesticides as drugs or medication during the course of
10 their normal practice.

11 (g) Any person issued a license for any one or any combination of the phases of
12 structural pest control shall be deemed to be a 'certified applicator' to use or supervise the
13 use of restricted use pesticides so long as the pesticides are being used only in the ~~phase(s)~~
14 phase of structural pest control for which the person is licensed.

15 (h) Licenses and certified applicator's identification cards may only be issued to
16 individuals. License certificates and certified applicator's identification cards shall be
17 issued in the name of the individual, shall bear the name and address of ~~his~~ the
18 individual's business or employer's business and shall indicate the phase or phases for
19 which the individual is qualified and such other information as the Committee may
20 specify."

21 Section 3. G.S. 106-65.26(d) reads as rewritten:

22 "(d) All applicants for license must have practical experience and knowledge of
23 practical and scientific facts underlying the practice of structural pest control, control of
24 wood-destroying ~~organisms~~ organisms, or fumigation. ~~No person who has within five years~~
25 ~~of his application been convicted of or has entered a plea of guilty or a plea of nolo contendere to~~
26 ~~a crime involving moral turpitude, or who has forfeited bond to a charge involving moral~~
27 ~~turpitude, shall be entitled to take an examination or the issuance of a license under the~~
28 ~~provisions of this Article. No applicant is entitled to take an examination for the issuance of~~
29 ~~a license pursuant to this Article who has within five years of the date of application been~~
30 ~~convicted, entered a plea of guilty or of nolo contendere, or forfeited bond in any State or~~
31 ~~federal court, for a violation of G.S. 106-65.25(b), any felony, or any crime involving~~
32 moral turpitude."

33 Section 4. G.S. 106-65.28(a) reads as rewritten:

34 "(a) Any license or certified applicator's identification card or registered
35 technician's identification card may be denied, revoked or suspended by a majority vote
36 of the Committee for any one or more of the following causes:

- 37 (1) Misrepresentation for the purpose of defrauding; deceit or fraud; the
38 making of a false statement with knowledge of its falsity for the purpose
39 of inducing others to act thereon to their damage; or the use of methods
40 or materials which are not reasonably suitable for the purpose
41 contracted.

- 1 (2) Failure of the licensee or certified applicator to give the Committee, the
2 Commissioner, or their authorized representatives, upon request, true
3 information regarding methods and materials used, or work performed.
- 4 (3) Failure of the licensee or certified applicator to make registrations
5 herein required or failure to pay the registration fees.
- 6 (4) Any misrepresentation in the application for a license or certified
7 applicator's identification card or registered technician's identification
8 card.
- 9 (5) ~~Willful violation~~ Violation of any provision of this Article or any rule or
10 ~~regulation~~ adopted pursuant to this Article.
- 11 (6) Aiding or abetting a licensed or unlicensed person or a certified
12 applicator or a noncertified person to evade the provisions of this
13 Article, combining or conspiring with such a licensed or unlicensed
14 person or a certified applicator or noncertified person to evade the
15 provisions of this Article, or allowing one's license, certified applicator's
16 identification card or registered technician's identification card, to be
17 used by any person other than the individual to whom it has been issued.
- 18 (7) Impersonating any State, county or city inspector or official.
- 19 (8) Storing or disposing of containers or pesticides by means other than
20 those prescribed on the label or adopted regulations.
- 21 (9) Using any pesticide in a manner inconsistent with its labeling.
- 22 (10) Payment, or the offer to pay, by any licensee to any party to a real estate
23 transaction of any commission, bonus, rebate, or other thing of value as
24 compensation or inducement for the referral to such licensee of
25 structural pest control work arising out of such transaction.
- 26 (11) Falsification of records required to be kept by this Article or the rules
27 and regulations of the Committee.
- 28 (12) Failure of a licensee or certified applicator to pay the original or renewal
29 license or identification card fee when due and continuing to operate as
30 a licensee or a certified applicator.
- 31 (13) Conviction of a felony or conviction of a violation of G.S. 106-65.28
32 within five years preceding the date of application for a license or a
33 certified applicator's identification card or conviction of any said crimes
34 while such license or card is in effect.
- 35 (14) Applying any substance that:
 - 36 a. Has the active ingredients contained in a pesticide that is
37 registered pursuant to G.S. 143-442, but
 - 38 b. Is not registered as a pesticide pursuant to G.S. 143-442.
- 39 (15) Combining any substance whose application is prohibited under
40 subdivision (14) of this subsection with any other substance to apply as
41 a pesticide or to apply for any other reason, whether the combination
42 occurs before, during, or after the application.

1 (16) Assaulting, resisting, impeding, intimidating, or interfering with any
2 State employee while that employee is engaged in the performance of
3 his or her duties under this Article.

4 (17) Performing structural pest control in a faulty, careless, or negligent
5 manner."

6 Section 5. G.S. 106-65.28 is amended by adding a new subsection to read:

7 "(g) Any pesticide, material, or device for which such information is requested by
8 the Committee pursuant to G.S. 106-65.29(9a) and denied by the registrant or
9 manufacturer shall not be used in any structural pest control performed for compensation
10 and may only be used by an individual performing structural pest control on the
11 individual's own property."

12 Section 6. G.S. 106-65.29 reads as rewritten:

13 "**§ 106-65.29. Rules and regulations.**

14 In order to ensure that persons licensed and certified under this Article are capable of
15 performing a high quality of workmanship, the Committee ~~is hereby authorized and~~
16 ~~empowered to make~~ may adopt rules and regulations with respect to:

17 (1) The amount and kind of training required of an applicant for a license
18 and certified applicator's card to engage in any one or more of the three
19 phases of structural pest control, and the amount and kind of training
20 required of an applicant for a registered technician's identification card.

21 (2) The type, frequency and passing score of any examination given an
22 applicant for a license and certified applicator's card under this Article.

23 (3) The amount, kind and frequency of continuing education required of a
24 licensee and certified applicator.

25 (4) The methods and materials to be used in performing any work
26 authorized by the issuance of a license and certified applicator's card
27 under this Article.

28 (5) The business records to be made and maintained by licensees and
29 certified applicators under this Article necessary for the Committee to
30 determine whether the licensee and certified applicator is performing a
31 high quality of workmanship.

32 (6) The credentials and identification required of licensees and certified
33 applicators, their employees and equipment, including service vehicles,
34 when engaged in any work defined under this Article.

35 (7) Safety methods and procedures for structural pest control work.

36 (8) Fees for reinspection following a finding of a deviation, as defined by
37 the Committee.

38 (9) Fees for training materials provided by the Committee or the Division.
39 Such fees may be placed in a revolving fund to be used for training and
40 continuing education purposes and shall not revert to the General Fund.

41 (9a) Efficacy data and other technical information to be submitted by
42 registrants and manufacturers of pesticides and other materials or
43 devices for review and approval, in order for the Committee and the

1 enforcement agency to ensure the efficacy of pesticides and other
2 materials or devices used in structural pest control in this State. This
3 subdivision does not require either the Committee or the enforcement
4 agency to disclose any information that is confidential information
5 within the meaning of G.S. 132-1.2.

6 (10) The policies and programs set forth in this Article."

7 Section 7. G.S. 106-65.30 reads as rewritten:

8 **"§ 106-65.30. Inspectors; inspections and reports of violations; designation of**
9 **resident agent.**

10 (a) For the enforcement of the provisions of this Article the Commissioner is
11 authorized to appoint one or more qualified inspectors and such other employees as are
12 necessary in order to carry out and enforce the provisions of this Article. The inspectors
13 shall be known as 'structural pest control inspectors.' The Commissioner shall enforce
14 compliance with the provisions of this Article by making or causing to be made
15 periodical and unannounced inspections of work done by licensees and certified
16 applicators under this Article who engage in or supervise any one or more phases of
17 structural pest control as defined in G.S. 106-65.25. The Commissioner shall cause the
18 prompt and diligent investigation of all reports of violations of the provisions of this
19 Article and all rules and regulations adopted pursuant to the provisions hereof; provided,
20 however, no inspection shall be made by a representative of the Commissioner of any property
21 without first securing the permission of the owner or occupant thereof. this Article. In order to
22 carry out the provisions of this Article, inspectors designated by the Commissioner may
23 enter upon any public or private premises at reasonable times for any one or more of the
24 following purposes:

25 (1) To have access to inspect the business premises, premises to which a
26 pesticide has been applied, any equipment subject to this Article, or the
27 premises in which the equipment is kept or stored.

28 (2) To sample areas to which a pesticide has reportedly been applied.

29 (3) To sample pesticides that have been applied, are being applied, or are to
30 be applied.

31 (4) To inspect storage or disposal areas.

32 (5) To inspect or investigate complaints of injury to humans, plants,
33 animals, or property.

34 (6) To have access to, inspect, or copy any records as may be required by
35 the Committee or maintained by any person licensed or certified under
36 this Article.

37 (b) Should the Commissioner or his designated agent be denied as provided under
38 subsection (a) of this section, the Commissioner or his designated agent may apply to any
39 court of competent jurisdiction for a search warrant authorizing access to property for
40 these purposes. The court may, upon such application, issue the search warrant for the
41 purposes requested.

42 (c) Prior to the issuance or renewal of a license or certified applicator's
43 identification card, every nonresident owner of a business performing any phase of

1 structural pest control work shall designate in writing to the Commissioner or his
2 authorized agent a resident agent upon whom service of notice or process may be made to
3 enforce the provisions of this Article and rules and regulations adopted pursuant to the
4 provisions hereof or any civil or criminal liabilities arising hereunder.

5 (d) The Commissioner shall have authority to appoint personnel of the Structural
6 Pest Control Division as special inspectors and said special inspectors are hereby vested
7 with the authority to arrest with a warrant, or to arrest without a warrant when a violation
8 of this Article is being committed in their presence or they have reasonable grounds to
9 believe that a violation of this Article is being committed in their presence. Said special
10 inspectors shall take offenders before the several courts of this State for prosecution or
11 other proceedings. The provisions of this section do not apply to any person holding a
12 valid structural pest control license, or a certified applicator's identification card, or a
13 registered technician's identification card as issued under the provisions of this Article.
14 Special inspectors shall not be entitled to the benefits of the Law Enforcement Officers'
15 Benefit and Retirement Fund or the benefits of the Law Enforcement Officers' and Others
16 Death Benefit Act as provided for in Articles 12 and 12A of Chapter 143 of the General
17 Statutes, respectively."

18 Section 8. G.S. 106-65.33 reads as rewritten:

19 "**§ 106-65.33. Violation of Article, falsification of records, or misuse of registered**
20 **pesticide a misdemeanor.**

21 (a) Any person who shall be adjudged to have violated any provision of this
22 Article or who falsifies any records required to be kept by this Article or by the rules and
23 regulations pursuant to this Article or who uses a registered pesticide in a manner
24 inconsistent with its labeling shall be guilty of a Class 2 misdemeanor. In addition, if any
25 person continues to violate or further violates any provision of this Article after written
26 notice from the Committee, the court may determine that each day during which the
27 violation continued or is repeated constitutes a separate violation subject to the foregoing
28 penalties.

29 (b) Nothing in this Article shall be construed to require the Committee or the
30 Commissioner to initiate, or attempt to initiate, any criminal or administrative
31 proceedings under this Article for a minor violation of this Article whenever the
32 Committee or Commissioner determines that the public interest will be adequately served
33 in the circumstances by a suitable written notice or warning."

34 Section 9. G.S. 106-65.41 reads as rewritten:

35 "**§ 106-65.41. Civil penalties.**

36 A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the
37 Committee against any person for any one or more of the causes set forth in G.S. 106-
38 65.28(a)(1) through ~~(12)~~ (12) and G.S. 106-65.28(a)(14) through (17), or who violates or
39 directly causes a violation of any provision of this Article or any rule adopted pursuant to
40 this Article. In determining the amount of any penalty, the Committee shall consider the
41 degree and extent of harm caused by the violation. No civil penalty may be assessed
42 under this section unless the person has been given an opportunity for a hearing pursuant
43 to Chapter 150B of the General Statutes. Assessments may be collected, following

1 judicial review, if any, of the Committee's final decision imposing the assessment, in any
2 lawful manner for the collection of a debt.

3 The clear proceeds of civil penalties assessed pursuant to this section shall be remitted
4 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

5 Section 10. This act becomes effective October 1, 1999.