

CHAPTER NO. 626

HOUSE BILL NO. 3677

By Representative Odom

Substituted for: Senate Bill No. 3613

By Senators Jackson, Beavers, Black, Bowers, Bryson, Burchett, Burks, Cohen, Cooper, Crowe, Crutchfield, Finney, Ford, Fowler, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Tracy, Williams, Woodson and Mr. Speaker Wilder

AN ACT to amend Tennessee Code Annotated, Title 43, Chapter 8, Part 3, relative to the aerial application of pesticides.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 43, Chapter 8, Part 3, is amended by adding a new section as follows:

§43-8-315.

(a) Notwithstanding any contrary provision of law, the department shall recover, in addition to civil penalties, the actual and reasonable costs of the hearing of any disciplinary action held in accordance with the contested case provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3, in which sanctions of any kind are imposed on any person or entity required to be licensed, permitted, registered or otherwise authorized or regulated by the department or its respective divisions, board, commissions or agency. These costs shall include, but are not limited to, those incurred and assessed for the time of the prosecuting attorneys, expert witnesses, administrative judges, court reporters and any other persons involved in the prosecution and hearing of the action.

(b)

(1) All civil penalties and costs assessed pursuant to this part shall be paid within thirty (30) days after the date a final order is entered.

(2) If the individual or entity disciplined fails to pay the civil penalty or costs assessed within thirty (30) days after the date a final order is entered, the department is entitled, as a matter of law, to a judgment directing such person to pay the civil penalties and costs to the department. Jurisdiction for recovery of such civil penalties and costs shall be in the chancery court of Davidson County.

SECTION 2. Tennessee Code Annotated, Title 43, Chapter 8, Part 3, is amended by deleting §43-8-305 in its entirety and by substituting instead the following:

§43-8-305.

(a) In the event the commissioner has reason to believe a licensee has violated any of the provisions of this part, including the rules and regulations promulgated hereunder, the licensee shall be notified and a hearing shall be conducted in accordance with the contested case provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3.

(b) The commissioner, on determining that any person may have violated any provision of this part, may petition for injunctive relief from further violation. Such petition shall be addressed to the chancery court in the county in which the offense occurred. The court, on determining that probable cause of a violation of this part exists, shall issue appropriate injunctive relief.

(c) The commissioner has the power to subpoena any persons or records incident to the hearing and a charge of contumacy may be filed for those who refuse to comply.

(d) Upon a finding that a violation has occurred, the commissioner may:

(1) Issue a civil penalty not to exceed two thousand five hundred dollars (\$2,500) per violation;

(2) Permanently revoke the license;

(3) Temporarily revoke the license;

(4) Suspend the license for a definite period of time; or

(5) Impose other conditions as are necessary for environmental or public safety.

(e) The action of the commissioner may be reviewed by filing a petition for review in the chancery court of Davidson County in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3. The decision of the commissioner shall remain final until modified by the commissioner or by the courts.

SECTION 3. This act shall take effect July 1, 2006, the public welfare requiring it.

PASSED: April 20, 2006


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 8th day of May 2006


PHIL BREDESEN, GOVERNOR