

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: March 15, 1998 Revised: 3/24/98 _____

Subject: Department of Agriculture and Consumer Services

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Akhavein</u>	<u>Poole</u>	<u>AG</u>	<u>Fav/2 amendments</u>
2.	<u>_____</u>	<u>_____</u>	<u>WM</u>	<u>_____</u>
3.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
4.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
5.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

I. Summary:

This bill makes the following changes pertaining to the powers and duties of the Department of Agriculture and Consumer Services (department):

- Prohibits the administration of medications to thoroughbred horses prior to a sale except from a licensed veterinarian who administers medication that is therapeutic or necessary for the treatment or prevention of an illness or injury;
- Requires a permit to transport or haul any dead, dying, disabled, or diseased animal, any product of an animal that died other than by slaughter, or any inedible animal product not meant for human consumption;
- Authorizes the department to award lump-sum salary bonuses;
- Authorizes the department's food and residue laboratories to perform certain analytical services relating to food safety;
- Authorizes the department to post a closed-for-operation sign on any food establishment operating without a permit or with a suspended or revoked permit;
- Creates an employees' benefit fund to be generated by voluntary employee donations;
- Revises the membership of the Florida Agriculture Center and Horse Park Authority;
- Changes the registration date for membership in the Florida Agricultural Promotional Campaign from July 1 to the anniversary date of the original membership;
- Authorizes the department to conduct, assist, or cooperate with others in conducting a commercial citrus inventory;
- Raises the fee cap from \$460 to \$600 for nursery and nursery stock dealer certificates of registration;
- Authorizes the department to deem an animal product misbranded if it is not labeled with the official USDA inspection legend;

- Repeals sections relating to the state's Meat Inspection Program which was abolished in 1997; and
- Reenacts sections concerning the permitting processes and disciplinary procedures for violations of the Food Safety Act.

This bill amends sections 535.11, 216.181, 500.09, 500.121, 570.07, 570.952, 571.25, 581.031, 581.131, 500.11, 570.50, 570.51, 585.89, 585.92, 828.22, and 877.05, Florida Statutes.

This bill creates sections 535.08 and 585.147, Florida Statutes.

This bill repeals sections 205.1951, 585.70, 585.71, 585.715, 585.72, 585.73, 585.74, 585.75, 585.76, 585.77, 585.78, 585.79, 585.80, 585.81, 585.82, 585.83, 585.84, 585.85, 585.86, 585.87, 585.88, 585.90, 585.902, 585.903, 585.904, 585.91, 585.93, 585.96, 828.24, 828.25, 877.06, and subsections (5) and (6) of s. 828.23 and subsection (2) of section 828.26, Florida Statutes.

This bill repeals section 102 of chapter 92-291, Laws of Florida.

II. Present Situation:

Section 535.08, F.S.

Currently, a thoroughbred horse that is offered for public sale cannot be administered any forbidden medication unless the horse is withdrawn from the sale for at least 24 hours after the medication is administered. The thoroughbred horse industry wants a veterinarian to be able to administer necessary medications before a sale with the condition that all medications are reported. The buyer can then make a decision about the horse and not hold the seller responsible for common drugs that a thoroughbred may need immediately.

Section 585.147, F.S.

There is a potential risk for spread of contagious and communicable diseases, both to human and animal populations, from transportation and storage of dead, dying, disabled, or diseased animals in vehicles and storage containers that leak. Currently, no state agency provides guidance or enforcement for transporting or hauling such animals or containers of carcasses or refuse.

Section 216.181, F.S.

Currently, Chapter 60L.18, F.A.C., rules of the Department of Management Services, provides criteria for implementation and administration of lump-sum bonus payments for eligible employees. However, s. 216.181(10)(b), F.S., prohibits agencies from awarding such bonuses, unless specifically appropriated, resulting in bonuses being disbursed in biweekly paychecks. Lump-sum bonuses provide a way for an agency to reward employees with dollars that do not become a recurring cost to the state. The department feels that a nominal bonus payment given at one time makes a larger impact than putting a few dollars biweekly into an employee's salary rate.

Section 500.09, F.S.

The department's food and residue laboratories do not currently contract out and conduct analyses for individual people or public agencies who request analyses from its laboratories. Some foreign countries require inspection certificates as well as food permits in order to accept foreign imports. China requires tests to be performed in its laboratories before allowing citrus fruits into the country. This slows down the process of getting the product into the marketplace and allows possible deterioration of the product.

Section 500.121, F.S.

Food establishments must apply for or renew annual permits. The department reports that between 1,000 and 1,300 food establishments do not pay their permit fees in a timely manner, causing department inspectors to spend a great deal of time attempting to collect these fees on a face-to-face basis. Using its only legal remedy, injunctive powers, is cost prohibitive, based on the large number of delinquent accounts. A closed-for-operation sign would be an incentive the department would like to be authorized to use for food establishments to pay their permit fees.

Section 570.07, F.S.

The department is not currently authorized to adopt policies creating and providing for the operation of an employees' benefit fund. This fund would be used for various activities for employees' benefits, such as sending flowers in the event of a death in the family.

Section 570.952, F.S.

The Florida Agriculture Center and Horse Park Authority is composed of 23 members who are appointed by the Commissioner of Agriculture. Currently, one of the members must be a representative of the Department of Commerce. In 1996, the Department of Commerce was abolished so a new member must be appointed to retain the mandatory 23 members. Two other representatives, "Appaloosa" and "paint" horse breeders, do not have a large representation in Florida and could be combined into a "color breeds" category, whereas Paso Fino horses are prevalent in Florida and are not represented in the membership.

Section 571.25, F.S.

Persons participating in the Florida Agricultural Promotional Campaign are required to register with the department and to renew their membership by July 1 of each year. This requirement prevents some new members from receiving a full year of benefits. Changing registration renewal to the anniversary date of the original membership would allow new FAPC members an entire year of benefits.

Section 581.131, F. S.

Nursery and nursery stock dealer certificate of registration fees are capped at \$460. Currently, the industry contributes approximately 60 percent of the program costs associated with the department's inspection services. Raising the cap to \$600 will increase revenues approximately \$300,000 and more fully cover the cost of the program for the next 5 years. This fee increase has been approved by the Florida Nurserymen and Growers Association.

Section 500.11, F.S.

The United States Department of Agriculture assumed responsibility for the state's Meat Inspection Program in 1997. This bill repeals provisions relating to labeling and animal product inspection. The department needs to continue to have the authority to deem an animal product misbranded if it is not labeled with the official USDA inspection legend. State inspectors need this authority to enforce food safety regulations in grocery stores that are inspected by the state, not the USDA.

Sections 570.50, 570.51, 585.89, 828.22, 877.05, 205.1951, 585.70, 585.71, 585.715, 585.72, 585.73, 585.74, 585.75, 585.76, 585.77, 585.78, 585.79, 585.80, 585.81, 585.82, 585.83, 585.84, 585.85, 585.86, 585.87, 585.88, 585.90, 585.902, 585.903, 585.904, 585.91, 585.93, 585.96, 828.24, 828.25, 877.06, and subsections (5) and (6) of s. 828.23 and subsection (2) of section 828.26, F.S.

The State Meat Inspection Program was eliminated in 1997. The statutes listed above address the state's prior responsibilities regarding duties of the Division of Food Safety and the director, humane slaughter, meat, meat or packing house inspection, slaughter of animals, and slaughterhouse inspection. These sections are now obsolete.

Section 102 of chapter 92-291, Laws of Florida

This section provides for review and repeal of ss. 500.12 and 500.121, F.S. Section 500.12, F.S., requires any person who operates a food establishment, with certain exceptions, to apply for a food permit. It also provides criteria for building permits to construct, convert, or remodel any food establishment, food outlet, or retail food store. Section 500.121, F.S., provides disciplinary procedures for the department to follow when a permitholder violates any provision of the Food Safety Act. These sections are scheduled for repeal by October 1, 1998, unless reenacted by the Legislature prior to that date. A legislative review of these sections was conducted to ensure that the provisions in these sections are administered by the department in the most effective and efficient manner possible and to determine if they continue to benefit the public. It was concluded that these sections serve a valuable public function. Section 500.12, F.S., provides the department with an annual permit process that is critical in carrying out its mission of providing consumer protection by assuring that food establishments handle food in a safe and sanitary manner. Section 500.121, F.S., provides disciplinary measures that are essential for the department to maintain effectiveness and efficiency by stating clear and uniform food safety regulatory standards for all food establishments.

III. Effect of Proposed Changes:

Section 1. Creates s. 535.08, F.S., to prohibit a person from administering medications to any thoroughbred horse offered for sale to the public at a thoroughbred horse sale within 72 hours of the start of a sale session. Provides an exception if the person is a licensed veterinarian and the medication is therapeutic or necessary for the treatment or prevention of an illness or injury. Requires any medications administered to be reported to the sales organization on a form signed by the attending veterinarian. The form must provide the following information:

- Identification of the medication, amount, and strength;
- The date and time of administration;
- Identification of the horse's name, age, sex, and entry number; and
- The reason for administration.

Requires the form to be filed with the sales organization no later than 12 hours after administration or 1 hour before the start of the sales session in which the thoroughbred horse is offered for sale. Authorizes the state veterinarian, or any veterinarian designated by the department to administer a blood test to any thoroughbred horse offered or sold at a sale. Such test shall be performed at the request of the purchaser of any thoroughbred horse sold, if the purchaser makes such a request before taking physical possession of the animal and within 24 hours of the time of sale. Provides that the purchaser is responsible for the cost of the test. Authorizes the seller to request a follow-up test in response to any positive test result within 48 hours after receiving notice of the result. Provides that the seller is responsible for the cost of the test. Requires the consignor to accept return of the horse as unsold if the tests reveal that a horse has been administered a prohibited substance. Provides penalties for violations. Provides that anyone convicted of a violation shall be barred from showing, exhibiting, or offering any horse for sale at a public sale in this state for a period of 2 years from the date of conviction.

Section 2. Amends s. 535.11, F.S., to define “horse show,” “horse exhibition,” or “horse sale” as any event in which horses compete for awards, prizes, points, ribbons, or money or are made available for public sale other than through a public sale of thoroughbred horses that requires licensing under s. 535.01, F.S.

Section 3. Creates s. 585.147, F.S., to require a permit to transport or haul any dead, dying, disabled, or diseased animal, any product of an animal that died other than by slaughter, or any inedible animal product not meant for human consumption. Authorizes the department to collect an annual fee of \$200 for the permit. Requires vehicles used in the transportation of carcasses or refuse on public highways to be constructed to prevent seepage or residue from escaping. Requires all barrels or other containers used for transportation and storage of carcasses or refuse to be clearly marked “INEDIBLE” with letters not less than 2 inches in height.

Section 4. Amends s. 216.181, F.S., to exempt the Department of Agriculture and Consumer Services from certain restrictions regarding lump-sum salary bonuses.

Section 5. Amends s. 500.09, F.S., to authorize the department to perform laboratory services relating to food safety or the compliance of food with the requirements of ch. 500, F.S., for any person or public agency. Authorizes the department to establish and collect fees to be used solely for the recovery of costs for services provided. Provides that such fees shall be deposited into the department's General Inspection Trust Fund.

Section 6. Amends s. 500.121, F.S., to authorize the department to post a closed-for-operation sign on any food establishment operating without a permit or with a suspended or revoked permit. Provides penalties for defacing or removing a closed-for-operation sign from an establishment in

violation. Provides penalties for a food establishment to open for operation without a permit or while a permit is suspended or revoked. Authorizes the department to impose administrative sanctions for violations of s. 500.121(5), F.S.

Section 7. Amends s. 570.07, F.S., to authorize the department to adopt policies creating and providing for the operation of an employees' benefit fund.

Section 8. Amends s. 570.952, F.S., to revise the membership of the Florida Agriculture Center and Horse Park Authority.

Section 9. Amends s. 571.25, F.S., to change the registration date for membership in the Florida Agricultural Promotional Campaign from July 1 to the anniversary date of the original membership.

Section 10. Amends s. 581.031, F.S., to authorize the department to conduct, assist, or cooperate with others in conducting a commercial citrus inventory and to expend funds which are deposited into the Plant Industry Trust Fund for such purposes.

Section 11. Amends s. 581.131, F.S., to raise the cap on nursery and nursery stock dealer certificate of registration and annual renewal fees from \$460 to \$600.

Section 12. Amends s. 500.11, F.S., to authorize the department to deem an animal product misbranded if it is not labeled with the official USDA inspection legend.

Section 13. Amends s. 570.50, F.S., to delete duties of the Division of Food Safety for enforcement of the provisions of ch. 585, F.S. Deletes references to ch. 585, F.S.

Section 14. Amends s. 570.51, F.S., to delete references to ch. 585 from duties of the director of the Division of Food Safety.

Section 15. Amends s. 585.89, relating to prohibitions on the purchase of beef and pork. Renumbers as s. 571.41, F.S., and deletes references to the department. Amends s. 585.92, F.S., relating to labeling meat or meat products "All American" or "Genuine Florida." Renumbers as s. 571.42, F.S.

Section 16. Amends s. 828.22, F.S., to correct a cross-reference.

Section 17. Amends s. 877.05, F.S., to remove reference to the state with regard to the slaughtering of calves less than 4 weeks old.

Section 18. Repeals sections 205.1951, 585.70, 585.71, 585.715, 585.72, 585.73, 585.74, 585.75, 585.76, 585.77, 585.78, 585.79, 585.80, 585.81, 585.82, 585.83, 585.84, 585.85, 585.86, 585.87, 585.88, 585.90, 585.902, 585.903, 585.904, 585.91, 585.93, 585.96, 828.24,

828.25, and 877.06, F.S., and subsections (5) and (6) of s. 828.23 and subsection (2) of s. 828.26, F.S. These sections relate to the state's Meat Inspection Program which was abolished in 1997.

Section 19. Repeals s. 102 of ch. 92-291, L.O.F., which provides for review and repeal of the permitting process for food permits and food establishment building permits and the enforcement of disciplinary measures for violations of the Food Safety Act.

Section 20. Provides that this act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Section 581.131, F.S. - Raising the cap on nursery and nursery stock dealer registration fees from \$460 per year to \$600 per year would result in an additional estimated total cost of \$299,077 per year for the industry. The increased revenue to the nursery inspection program will be used to provide services to the nursery industry and ultimately the consumer.

Section 535.08, F.S. - Anyone who requests a test to determine if a thoroughbred has been administered a forbidden substance would be responsible for the cost of the test. This cost could vary from one laboratory to another, but if the test is performed at the Kissimmee Diagnostic Laboratory, the cost would be approximately \$20 per test. Testing would allow the purchaser the opportunity to make sure of the soundness of the horse being purchased and provide protection from the possibility of purchasing a horse that is not physically fit.

Section 585.147, F.S. - Any person who transports dead, dying, disabled, or diseased animals, any product of an animal that died other than by slaughter, or any inedible animal product not meant for human consumption must pay \$200 per year for a permit. More stringent disease control will benefit the public.

C. Government Sector Impact:

	<u>FY 1998-99</u>	<u>FY 1999-00</u>	<u>FY 2000-01</u>
<u>OPERATING COSTS:</u>			
Non-Recurring Costs	0	0	0
Recurring Costs			
<u>General Inspection Trust Fund</u> - Expenses for travel, printing and mailing permits to transfer or haul certain animals or animal products	4,635	4,635	4,635
Recurring Revenues			
<u>Plant Industry Trust Fund</u> - Nursery Fees/Nursery Stock Dealer Fees	299,077	299,077	299,077
<u>General Inspection Trust Fund</u> - Transporter Permit Fees	5,000	5,000	5,000
TOTAL OPERATING COSTS			
General Inspection Trust Fund	\$4,635	\$4,635	\$4,635
TOTAL OPERATING REVENUES			
Plant Industry Trust Fund	\$299,077	\$299,077	\$299,077
General Inspection Trust Fund	\$5,000	\$5,000	\$5,000
<u>NON-OPERATING COSTS:</u>			
General Revenue Service Charge - General Inspection Trust Fund	\$365	\$365	\$365
TOTAL OF ALL COSTS			
General Inspection Trust Fund	\$5,000	\$5,000	\$5,000
TOTAL OF ALL REVENUES			
General Inspection Trust Fund	\$5,000	\$5,000	\$5,000
Plant Industry Trust Fund	\$299,077	\$299,077	\$299,077

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Agriculture:

Deletes an amendment to authorize the Department of Agriculture and Consumer Services to collect an annual fee of \$200 for a permit to transport or haul certain animals or animal products.

(WITH TITLE AMENDMENT)

#2 by Agriculture:

Deletes an amendment to s. 581.131, F.S., to raise the cap on nursery and nursery stock dealer certificate of registration and annual renewal fees from \$460 to \$600. (WITH TITLE AMENDMENT)