

STORAGE NAME: h0907s2.leps
DATE: April 10, 1997

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
LAW ENFORCEMENT AND PUBLIC SAFETY
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/CS/HB 907
RELATING TO: Department of Agriculture and Consumer Services
SPONSOR(S): Committee on Law Enforcement and Public Safety and Committee on Agriculture and Representative Spratt and Others
STATUTE(S) AFFECTED: Chapters 215, 500, 501, 531, 534, 570, 581, 585, 590, 601, 602, and 604, Florida Statutes, and Chapter 92-153, Laws of Florida
COMPANION BILL(S): CS/SB 2044 (s). HB 1225, SB 1088, SB 1104 (c)
ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) AGRICULTURE YEAS 7 NAYS 0
(2) LAW ENFORCEMENT AND PUBLIC SAFETY YEAS 6 NAYS 0
(3)
(4)
(5)

I. SUMMARY:

CS/CS/HB 907 is a portion of the Department of Agriculture and Consumer Services' legislative package for 1997.

It excludes the General Inspection Trust Fund, three marketing order trust funds and certain funds administered by the department from the General Revenue service charge.

In keeping with the federal law, this bill transfers language regarding bottled water and packaged ice requirements to sections providing food establishment requirements. Section 500.171, F.S., is rewritten to reflect the change in law by judicial decision regarding how an injunction may be obtained. It gives the department rule-making authority to adopt sampling procedures for determining acceptable pricing practices at the retail level.

It also allows for fees collected pursuant to Chapter 534 to be deposited into the General Inspection Trust Fund. It changes the distribution of the brucella vaccine by the department to a permissive rather than mandatory requirement.

It repeals section 3 of Chapter 92-153, Laws of Florida, reestablishing the Endangered Plant Advisory Council. It authorizes the Division of Forestry to monitor activity on state lands; to lease antenna space on existing structures to telecommunication companies; and, to be the primary overseer for forest and wild land fire protection. It exempts the department from the appropriation process when building, from existing resources, structures costing less than \$50,000 per structure.

It gives the department authority to deal with violations relating to citrus dealer licenses.

A Friends of Florida State Forests Program is created and the department is authorized to establish a direct support organization for the program.

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Lastly, it provides that the reimbursed federal funds for citrus canker be deposited into the Plant Industry Trust Fund and be used solely for canker eradication.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Plant Industry:

Section 581.011, F.S., defines "noxious weed" as any living stage of a plant which may be a serious agricultural threat in Florida. The potential impact of noxious weeds on native plant species is not addressed in existing law.

Section 581.182, F.S., provides the duties of the Citrus Budwood Registration Committee.

Chapter 92-153, Laws of Florida, establishes the Endangered Plant Advisory Council and sets a repeal date of October 10, 1997. The council advises the department concerning issues related to regulated and endangered plant species and provides a public forum for individuals to voice their concerns related to such species.

Forestry:

Section 589.011, F.S., provides for the use of state forest lands and for fees that may be charged. It grants the department authority to adopt and enforce rules necessary for protection, utilization, occupancy and development of certain lands, including state forest lands.

Section 590.01, F.S., allows the Division of Forestry to create special protection districts in areas needing special protection from fire.

Section 590.02(2), F.S., exempts the department from the requirements of Chapter 255, F.S., when constructing from existing resources, buildings valued at less than \$50,000 per structure.

Section 590.026(5), F.S., outlines the requirements to be followed for prescribed burns and the liability that may result from such burns.

Citrus:

Section 601.58(1), F.S., provides that each citrus fruit dealer's license application be processed and issued by the Bureau of Citrus License and Bond in the department's Division of Fruit and Vegetables.

Section 601.60(1), F.S., requires the issuance of a citrus fruit dealer's license as long as the individual has met the conditions outlined, including approved endorsement of the Department of Citrus, satisfaction of conditions of approval, and payment of the appropriate fee to the department.

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Section 601.67, F.S., allows the department to take disciplinary action against a citrus fruit dealer for violation of the provisions of the chapter. Existing fines range from \$10,000 to \$100,000.

Citrus Canker Funding:

Section 602.065, F.S., provides that any funds received by the state from the federal government as reimbursement for the federal government's share of costs arising from the eradication of citrus canker shall be divided equally between the General Revenue Fund and the Citrus Advertising Trust Fund.

Agricultural Products:

Section 604.15(3), F.S., defines "agricultural products" to include the natural products of the farm, nursery, grove, orchard, vineyard, garden, and apiary; livestock; milk and milk products; poultry and poultry products; and limes, produced in the state, except tobacco, tropical foliage, sugarcane, and citrus other than limes. Sale or use of saw palmetto fruit is not currently regulated. A significant market has developed for saw palmetto fruit. Problems occur when persons trespass on private property to harvest the fruit.

General Provisions:

Section 215.20, F.S., provides for a service charge levied on certain trust fund monies placed into the General Revenue Fund.

Section 215.22, F.S., provides exemptions to certain trust funds subject to a service charge pursuant to s. 215.20 F.S., on January 1, 1990.

Food Safety:

Section 500.03, F.S., provides definitions for the Florida Food Safety Act. The definitions of bottled water and packaged ice are not currently addressed.

Section 500.04, F.S., describes prohibited acts under the Florida Food Safety Act. Prohibited acts concerning bottled water and packaged ice are not addressed in this section.

Section 500.11, F.S., provides for what constitutes misbranded food.

Section 500.12, F.S., requires a food permit to sell food. Bottled water and packaged ice permits are not currently included in this section of law.

Section 500.121, F.S., sets out the procedures that may be followed when a violation of Chapter 500 has occurred. Provisions for violations of bottled water and packaged ice regulations are not included in this section.

Section 500.147, F.S., provides for the inspection of food establishments and vehicles. Inspection requirements for bottled water or packaged ice in food establishments are not included in this section.

Section 500.171, F.S., allows the department to obtain an injunction for violation of a prohibited act under Chapter 500.

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Section 500.177, F.S., provides a criminal penalty for violating a prohibited act under Chapter 500.

Section 500.459, F.S., provides permitting requirements for water vending machines.

Section 500.511, F.S., sets out the collection, enforcement, and disposition of fees collected for water vending machines.

Weights, Measures, and Standards:

Section 531.44, F.S., prohibits misrepresentation of the price of a retail item sold by weight, measure or count.

Section 531.50, F.S., allows criminal sanctions for violations of the Weights, Measures and Standards Act.

Animal Industry:

Section 534.011, F.S., provides for the inspection of livestock in Florida to be carried out by the department.

Section 585.105, F.S., requires the department to distribute brucella vaccine at no cost to owners of cattle in Florida. The administration of brucella vaccine into female calves is a deterrent against bovine brucellosis, and it aids in the establishment and maintenance of a healthy animal. Brucella is considered to be a human health issue since the disease is transmissible to humans. The goal is that the entire U.S. will be brucellosis-free by December 31, 1998.

Administration:

Section 570.20, F.S., allows all monies received through the enforcement of inspection laws administered by the department to be paid into the General Inspection Trust Fund and that a percentage of these revenues be deposited into the General Revenue Fund pursuant to Chapter 215, F.S.

B. EFFECT OF PROPOSED CHANGES:

Plant Industry:

The bill expands the definition of "noxious weed" to include any plant which negatively impacts any plant species considered to be native to Florida.

The name of the Citrus Budwood Registration Committee is changed to the Citrus Budwood Technical Advisory Committee to more accurately reflect the duties and responsibilities of the group.

Chapter 92-153, Laws of Florida, is repealed thereby reestablishing the Endangered Plant Advisory Council.

Forestry:

The bill allows the Division of Forestry (division) to prohibit activities “that interfere with management objectives, create a nuisance or pose a threat to public safety.” Prohibited activities must be clearly posted in the area affected. Violation of this provision will constitute a misdemeanor of the second degree.

The department is allowed to contract out to telecommunications companies, antenna space on existing properties and structures under division control, for a just, reasonable, non-discriminatory fee based upon the fair market value of the space used. According to the department, allowing antenna space to be leased prevents telecommunications companies from having to construct new towers, and revenue is generated for the division. The fees collected will be deposited into the Incidental Trust Fund.

The bill establishes the Friends of Florida State Forests Program within the department. This program will provide support and assistance for existing and future programs of the Division of Forestry. The department is authorized to create a direct-support organization to provide assistance to the Friends of Florida State Forests Program which shall be governed by the provisions of ss. 570.902 and 570.903.

The bill clarifies that the division has primary responsibility for forest and wild land fire protection in the state. The division is required to provide leadership and direction in the evaluation, coordination, and monitoring of wildfire management and protection, thus reducing threats to life and property, forest and wild land resources, and other related values. The department is allowed to establish a “special protection district” where there is a need for special fire protection.

The bill exempts the department from the appropriations process when building a structure, using existing resources, that is under \$50,000 in total cost.

Prescribed burning requirements and liability provisions are extended to include all of s. 590.026, F.S., relating to prescribed burning.

Citrus:

The bureau and division references are deleted from provisions describing procedures for obtaining a citrus fruit dealer’s license. All applications shall be forwarded to the department.

The department may refuse to issue a citrus fruit dealer’s license to a person who is under investigation, or who has a proceeding pending, for a violation of Chapter 601, F.S.

A fine of up to \$50,000 may be assessed by the department for anyone operating as a citrus fruit dealer without a citrus fruit dealer’s license.

Citrus Canker Funding:

All reimbursed monies received from the federal government for the eradication of citrus canker shall be deposited into the department's Plant Industry Trust Fund and used only toward the eradication of citrus canker.

Agricultural Products:

The definition of agricultural products is expanded to include the "fruit of the saw palmetto." Adoption of this provision will require all growers and/or brokers of this product to be licensed and bonded, including those who harvest the fruit from wild or public lands.

General Provisions:

Section 215.20, F.S., will exclude the General Inspection Trust Fund and three marketing order trust funds from the General Revenue service charge. It also excludes certain trust funds administered by the department from the service charge.

Food Safety:

Existing laws relating to bottled water and packaged ice are transferred to the appropriate sections of Chapter 500, F.S., the Food Safety Act, with the prior sections being repealed. No substantive changes are included in the transferred language. Bottled water labels are added to the misbranded foods provision. Section 500.171, F.S., is rewritten to reflect the change in law by judicial decision regarding how an injunction may be obtained. The bill adds definitions relating to water vending machines and includes a proper cross reference for approved back-flow prevention devices.

Weights, Measures and Standards:

The bill gives the department rule-making authority for sampling procedures to determine acceptable pricing practices at the retail level. It also gives the department the authority to adopt a graduated fine schedule for violations of this provision. All fines collected by the department will be deposited into the General Inspection Trust fund for the purpose of administering the provisions of this chapter.

Animal Industry:

This bill provides that the fees collected by the department for the inspection and protection of livestock will be deposited into the General Inspection Trust Fund. The bill changes the distribution of the brucella vaccine by the department from a mandatory to a permissive directive.

Administration:

The bill changes language requiring a percentage of revenues deposited into the General Inspection Trust Fund from being transferred to the General Revenue Fund.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes. Section 531.44, F.S., allows the department to adopt, by rule, sampling procedures for retail pricing.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Water vending and packaged ice programs are being merged with the food program. Both programs are currently administered by the department.

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes. According to the department, consolidation of food, bottled water and packaged ice programs into Chapter 500, F.S., would allow individuals to apply for one permit rather than three.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment: **Not applicable.**

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

- (2) Who makes the decisions?
 - (3) Are private alternatives permitted?
 - (4) Are families required to participate in a program?
 - (5) Are families penalized for not participating in a program?
- b. Does the bill directly affect the legal rights and obligations between family members?
- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:
- (1) parents and guardians?
 - (2) service providers?
 - (3) government employees/agencies?

D. SECTION-BY-SECTION RESEARCH:

Section 1: Amends s. 581.011, F.S., expanding the definition of "noxious weed."

Section 2: Amends s. 581.182, F.S., changing the name of the Citrus Budwood Registration Committee to Citrus Budwood Technical Advisory Committee.

Section 3: Repeals section 3 of Chapter 91-153, Laws of Florida, reestablishing the Endangered Plant Advisory Council.

Section 4: Amends s. 589.011, F.S., authorizing the Division of Forestry to prohibit certain activities on lands managed by the division, and requiring prohibited activities to be posted. The division is also allowed to contract for telecommunications antenna space on property and structures under division control.

Section 5: Creates s. 598.012, F.S., establishing the Friends of Florida State Forests Program within the Department of Agriculture and Consumer Services.

Section 6: Creates s. 589.013, F.S., authorizing a direct support organization to assist the Friends of Florida State Forest Program.

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Section 7: Amends s. 590.01, F.S., giving the Division of Forestry primary responsibility for forest and wild land fire protection in the state.

Section 8: Amends s. 590.02, F.S., 1996 Supplement, excluding the department from having to go through the appropriations process to construct, from existing resources, buildings costing less than \$50,000.

Section 9: Amends s. 590.026, F.S., expanding liability requirements associated with prescribed burning.

Section 10: Amends s. 601.58, F.S., removing statutory reference to a specific bureau and division within the department.

Section 11: Amends s. 601.60, F.S., allowing the department to refuse to issue a citrus fruit dealer's license under certain conditions.

Section 12: Amends s. 601.67, F.S., specifying that the department may assess a fine not to exceed \$50,000 for a person operating as a citrus fruit dealer without a citrus fruit dealer's license.

Section 13: Amends s. 602.065, F.S., 1996 Supplement, requiring that all federal monies received as reimbursement for citrus canker eradication be placed in the Plant Industry Trust Fund and used only for citrus canker eradication.

Section 14: Amends s. 604.15, F.S., adding "fruit of the saw palmetto" to the definition of agricultural products.

Section 15: Amends s. 215.20, F.S., excluding the General Inspection Trust Fund and three marketing order trust funds from the General Revenue service charge.

Section 16: Amends s. 215.22, F.S., excluding certain trust funds administered by the department from the service charge pursuant to s. 215.20, F.S.

Sections 17-26 transfer existing laws relating to bottled water and packaged ice to the appropriate sections of Chapter 500, F.S., the Food Safety Act. No substantive changes are included in the transferred language.

Section 17: Amends s. 500.03, F.S., transferring definitions from s. 500.0453, F.S.

Section 18: Reenacts s. 500.04, F.S., without change, accommodating the transfer of bottled water and packaged ice provisions.

Section 19: Amends s. 500.11, F.S., consolidating bottled water label language from s. 500.455, F.S., which is being repealed.

Section 20: Amends s. 500.12, F.S., consolidating permit language from ss. 500.457 and 500.509, F.S.

Section 21: Reenacts s. 500.121, F.S., without change, accommodating the transfer of bottled water and packaged ice provisions.

Section 22: Amends s. 500.147, F.S., placing inspection requirements of bottled water plants and packaged ice plants under food store inspections. This change consolidates bottled water and packaged ice requirements under food store requirements.

Section 23: Amends s. 500.171, F.S., reflecting the change in law by judicial decision regarding how an injunction can be obtained.

Section 24: Reenacts s. 500.177, F.S., without change, accommodating the transfer of bottled water and packaged ice provisions.

Section 25: Amends s. 500.459, F.S., adding definitions relating to water vending machines from s. 500.453, F.S., which is being repealed. The section is further amended to include a proper cross reference for approved back-flow prevention devices.

Section 26: Amends s. 500.511, F.S., correcting cross references in sections being repealed by this bill.

Section 27: Amends s. 531.44, F.S., providing rule making authority to the department for sampling procedures to determine acceptable pricing practices at the retail level.

Section 28: Amends s. 531.50, F.S., providing a warning letter, a graduated fine schedule and a criminal sanction for violation rather than a criminal sanction provision only.

Section 29: Amends s. 534.011, F.S., providing that all fees collected under Chapter 534 be placed in the General Inspection Trust Fund.

Section 30: Amends s. 570.20, F.S., deleting language requiring a percentage of revenues deposited into the General Inspection Trust Fund from being transferred to the General Revenue Fund.

Section 31: Amends s. 585.105, F.S., changing the mandatory distribution requirement of brucella vaccine by the department to a permissive requirement.

Section 32: Repeals ss. 500.453, 500.455, 500.457, and 500.509, F.S., which are being consolidated into the food establishment sections of Chapter 500, F.S.

Section 33: Provides that the act shall take effect upon becoming a law.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

FY 97-98 FY 98-99 FY 99-00

Division of Forestry

Non-recurring Effects:

Expenses (Preparation for implementation of 3-4 towers per year over 3 years)	\$15,000	\$12,000	\$10,000
	<u>FY 97-98</u>	<u>FY 98-99</u>	<u>FY 99-00</u>

Recurring Effects:

Expenses (Maintenance of towers)	\$2,000	\$4,800	\$6,500
Revenues (Fees for use of antenna space)	\$16,000	\$34,000	\$44,000

Long Run Effects Other Than Normal Growth:

None

Total Revenues and Expenditures:

Incidental Trust Fund

Revenues	\$16,000	\$34,000	\$44,000
Expenditures	<u>\$17,000</u>	<u>\$16,800</u>	<u>\$16,500</u>
Total	(\$1,000)	\$17,200	\$27,500

Division of Plant Industry

Non-recurring Effects:

Revenues (Federal funds from citrus canker lawsuit settlement.)	\$17,000,000		
Total	\$17,000,000		

Division of Animal Industry

Recurring Effects:

Expenses (Money saved from reversal of brucellosis vaccine requirement)	\$(110,000)	\$(115,000)	\$(120,000)
Total	\$(110,000)	\$(115,000)	\$(120,000)

Division of Weights and Standards

Recurring Effects:

Expenses (Training for enforcement of new fining structure)	\$5,000	\$5,000	\$5,000
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(General Revenue Fund service charge)	\$365	\$1,095	\$1,460
Revenues (Fees anticipated from new penalty structure)	\$5,000	\$15,000	\$20,000

Long Run Effects Other Than Normal Growth:

None

	<u>FY 97-98</u>	<u>FY 98-99</u>	<u>FY 99-00</u>
<u>Total Revenues and Expenditures:</u>			
Incidental Trust Fund			
Revenues	\$5,000	\$15,000	\$20,000
Expenditures	<u>\$5,365</u>	<u>\$6,095</u>	<u>\$6,460</u>
Total	(\$365)	\$8,905	\$13,540

Division of Administration

Recurring Effects:

Expenses (Deletes service charge to GF on funds in GITF)	\$(2,637,173)
Total	\$2,637,173

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Division of Animal Industry: The cost for the purchase of brucella vaccine, used to vaccinate female cattle, would be borne by the cattle producers. At the present time, it is purchased from appropriations allocated to the department, then, upon

request for vaccination, distributed to the veterinary practitioner and state/federal authorized personnel at no cost to the producer.

2. Direct Private Sector Benefits:

Division of Plant Industry: The use of the \$17 million in federal funds resulting from the nursery strain citrus canker lawsuit settlement could substantially reduce the need for citrus industry assessments to partially fund the existing eradication program.

Division of Forestry: Antenna space for cellular phones and paging services will be available for commercial telecommunication companies and the need for companies to build their own new towers will be reduced.

3. Effects on Competition, Private Enterprise and Employment Markets:

Division of Forestry: Other state agencies have been authorized to lease antenna space on their towers and facilities. This reduces the need for private companies to build their own towers. State agencies will be in direct competition with private enterprise in leasing antenna space and tower space to commercial telecommunications companies.

Division of Animal Industry: Continuance of a vaccination program until Florida is declared brucellosis-free is of economic importance to the producer.

D. FISCAL COMMENTS:

Division of Plant Industry: The \$17 million in projected revenue represents a federal government payment to the state as settlement for a lawsuit brought by the state to obtain reimbursement for expenses incurred in eradicating nursery strain citrus canker. The payment has been negotiated by the Florida Attorney General's office and the United States Department of Justice. Receipt of the federal funds will eliminate the need for a \$4.3 million General Revenue request included in the department's 1997-98 Legislative Budget Request.

Division of Forestry: Projected expenditures are based upon the costs involved in maintaining properties where communications antennas are located. Properties, such as fire towers, will have to be maintained to a higher standard with more frequent inspections and maintenance than are currently performed. A deficit of \$1,000 is estimated for the first year, with profit being projected for the second and third years.

Division of Administration: By deleting the service charge, \$2,637,173 will remain in the General Inspection Trust Fund rather than being transferred to the General Revenue Fund.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or take actions requiring expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the revenue raising authority of any county or municipality.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce any state tax revenues shared with counties and municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Three amendments were incorporated into HB 907 to create CS/HB 907. The first provides that rental or leasing fees from telecommunication companies be deposited in the Incidental Trust Fund; the second creates the Friends of Florida State Forests Program and authorizes a direct support organization to assist the program; the third merges PCB AG 97-02 with HB 907.

On April 4, 1997, the Committee on Law Enforcement and Public Safety authorized a committee substitute for a committee substitute which modified the previous committee substitute as follows:

- (1) Provides that the department may issue an applicant a temporary citrus fruit dealer's license, if the applicant is under investigation for violation of the citrus code.
- (2) Increases the fine for operating as a citrus fruit dealer without a license from \$50,000 per violation to \$100,000 per violation.
- (3) Deletes the repeal of the general revenue service charge on the trust funds of the Department of Agriculture and Consumer Services.
- (4) Creates a pilot program establishing a special food inspection program, and providing criteria for the program.
- (5) Clarifies that the Department of Agriculture and Consumer Services (and not the Division of Consumer Services) compiles reports of all complaints.
- (6) Names the Doyle E. Carlton Cracker Country facility.
- (7) Removes the requirement of county approval before a state can issue a submerged land lease for aquaculture.
- (8) Clarify the scope of the Regulated Plant Index and limit its affect on land owners.
- (9) Allows the department to fine up to an additional \$10,000 for mislabeling the country of origin on food packages or bins.

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VII. SIGNATURES:

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AS REVISED BY THE COMMITTEE ON LAW ENFORCEMENT AND PUBLIC SAFETY:

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