

By the Committee on Agriculture and Representatives
Spratt, Minton, Bronson, Putnam, Harrington, Smith, Boyd,
Wiles and Greene

1 A bill to be entitled
2 An act relating to the Department of
3 Agriculture and Consumer Services; amending s.
4 581.011, F.S.; revising definition of the term
5 "noxious weed"; amending s. 581.182, F.S.;
6 renaming an advisory committee; repealing s. 3,
7 ch. 92-153, Laws of Florida; abrogating the
8 repeal of s. 581.186, F.S., relating to the
9 Endangered Plant Advisory Council; amending s.
10 589.011, F.S.; authorizing the Division of
11 Forestry to prohibit certain activities and
12 providing penalties; authorizing leasing of
13 property and structures to telecommunications
14 providers; authorizing fees; creating s.
15 589.012, F.S.; creating the Friends of Florida
16 State Forests Program; providing purpose;
17 creating s. 589.013, F.S.; authorizing a
18 direct-support organization for the Friends of
19 Florida State Forests Program; amending s.
20 590.01, F.S.; providing Division of Forestry
21 responsibility for forest and wild land fire
22 protection; amending s. 590.02, F.S.;
23 clarifying that a specific appropriation is not
24 needed to build certain structures; amending s.
25 590.026, F.S.; clarifying requirements for
26 prescribed burning; amending s. 601.58, F.S.;
27 revising procedures relating to approval of a
28 citrus fruit dealer's license application;
29 amending s. 601.60, F.S.; authorizing the
30 department to refuse to issue a citrus fruit
31 dealer's license under certain conditions;

1 amending s. 601.67, F.S.; authorizing a fine
2 against a person who operates as a citrus fruit
3 dealer without a license; amending s. 602.065,
4 F.S.; revising provisions relating to the
5 deposit of certain funds for the eradication of
6 citrus canker; amending s. 604.15, F.S.;
7 revising definition of the term "agricultural
8 products"; amending s. 215.20, F.S., relating
9 to certain income and trust funds to contribute
10 to the General Revenue Fund; deleting an
11 incorrect reference; deleting a service charge
12 on income deposited in a specified trust fund;
13 amending s. 215.22, F.S.; providing an
14 exemption from a service charge for certain
15 trust funds; amending s. 500.03, F.S.;
16 providing definitions relating to food
17 products; reenacting s. 500.04(4) and (6),
18 F.S., relating to prohibited acts, to
19 incorporate amendments to ss. 500.12 and
20 500.147, F.S., in references; amending s.
21 500.11, F.S., relating to misbranded food;
22 clarifying language; adding bottled water
23 requirements; amending s. 500.12, F.S.,
24 relating to food and building permits;
25 including existing fees for permits for
26 operating bottled water plants or packaged ice
27 plants; providing requirements; reenacting s.
28 500.121(1), F.S., relating to disciplinary
29 procedures, to incorporate amendments to s.
30 500.12, F.S., in a reference; amending s.
31 500.147, F.S.; inserting inspection language

1 for bottled water plants and packaged ice
2 plants; amending s. 500.171, F.S.; revising
3 provisions authorizing an injunction;
4 reenacting s. 500.177(1), F.S.; providing a
5 penalty; amending s. 500.459, F.S.; providing
6 definitions relating to water vending machines
7 and conforming a requirement to the State
8 Plumbing Code; amending s. 500.511, F.S.,
9 relating to fees, enforcement, and preemption;
10 conforming cross references and deleting
11 reference to certain water and ice operators
12 and dealers; amending s. 531.44, F.S.;
13 establishing authority to set procedures for
14 verifying acceptable pricing practices;
15 amending s. 531.50, F.S.; authorizing penalties
16 for violation of provisions relating to weights
17 and measures; providing for deposit of funds;
18 amending s. 534.011, F.S.; providing for
19 deposit of fees relating to the inspection and
20 protection of livestock; amending s. 570.20,
21 F.S., relating to the General Inspection Trust
22 Fund; deleting requirement for deposit of a
23 percentage of funds in the General Revenue
24 Fund; amending s. 585.105, F.S.; clarifying
25 authority for distribution of a brucella
26 vaccine; repealing ss. 500.453, 500.455,
27 500.457, and 500.509, F.S., relating to bottled
28 water and packaged ice regulation; providing an
29 effective date.

30
31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Subsection (18) of section 581.011, Florida
2 Statutes, is amended to read:

3 581.011 Definitions.--As used in this chapter:

4 (18) "Noxious weed" means any living stage, including,
5 but not limited to, seeds and productive parts, of a parasitic
6 or other plant of a kind, or subdivision of a kind, which may
7 be a serious agricultural threat in Florida or have a negative
8 impact on the plant species protected under s. 581.185.

9 Section 2. Paragraphs (b), (f), and (g) of subsection
10 (4) of section 581.182, Florida Statutes, are amended to read:

11 581.182 Citrus plants and citrus plant products from
12 other states, territories, or foreign countries.--

13 (4) In considering an application for a permit to
14 introduce into this state from another state, territory, or
15 foreign country any citrus plant or citrus plant product or
16 propagation therefrom, the department shall consider the
17 following guidelines:

18 (b) The clones introduced must:

19 1. Have been evaluated by the Citrus Budwood Technical
20 Advisory ~~Registration~~ Committee as having desirable and
21 superior characteristics to warrant testing under Florida
22 field conditions prior to possible release as a new clone; or

23 2. Be of a type desirable:

24 a. For research; or

25 b. As a breeding stock to be used by the agricultural
26 experiment stations in Florida.

27 (f) When tests are completed, new clones will be
28 evaluated by the Citrus Budwood Technical Advisory
29 ~~Registration~~ Committee. If the committee recommends the
30 release and distribution of any clone to the industry, a
31

1 portion of this clone will be validated and maintained in a
2 Division of Plant Industry planting.

3 (g) The director is authorized to waive permit
4 requirements for certain species of plants of the subfamilies
5 Aurantioideae, Rutoideae, or Toddalioideae which the Citrus
6 Budwood Technical Advisory ~~Registration~~ Committee determines
7 pose no threat of introducing into the state a citrus plant
8 pest.

9 Section 3. Section 3 of chapter 92-153, Laws of
10 Florida, is hereby repealed.

11 Section 4. Subsections (5) and (6) are added to
12 section 589.011, Florida Statutes, to read:

13 589.011 Use of state forest lands; fees; rules.--

14 (5) The Division of Forestry may prohibit on state
15 forest lands, or any lands leased by or otherwise assigned to
16 the division for management purposes, activities that
17 interfere with management objectives, create a nuisance, or
18 pose a threat to public safety. Such prohibited activities
19 must be posted with signs not more than 500 feet apart along,
20 and at each corner of, the boundaries of the land. The signs
21 must be placed along the boundary line of posted land in a
22 manner and in such position as to be clearly noticeable from
23 outside the boundary line. A person who violates the
24 provisions of this subsection commits a misdemeanor of the
25 second degree, punishable as provided in s. 775.082 or s.
26 775.083.

27 (6) The Division of Forestry may enter into contracts
28 or agreements, with or without competitive bidding or
29 procurement, to make available, on a fair, reasonable, and
30 nondiscriminatory basis, property and other structures under
31 division control for the placement of new facilities by any

1 wireless provider of mobile service as defined in 47 U.S.C. s.
2 153(n) or 47 U.S.C. s. 332(d) or any telecommunications
3 company as defined in s. 364.02 when it is determined to be
4 practical and feasible to make such property or other
5 structures available. The division may, without adopting a
6 rule, charge a just, reasonable, and nondiscriminatory fee for
7 the placement of the facilities, payable annually, based on
8 the fair market value of space used by comparable
9 communications facilities in the state. The division and a
10 wireless provider or telecommunications company may negotiate
11 the reduction or elimination of a fee in consideration of
12 services provided to the division by the wireless provider or
13 telecommunications company. All such fees collected by the
14 division shall be deposited in the Incidental Trust Fund.

15 Section 5. Section 589.012, Florida Statutes, is
16 created to read:

17 589.012 Friends of Florida State Forests Program.--The
18 Friends of Florida State Forests Program is established within
19 the Department of Agriculture and Consumer Services. Its
20 purpose is to provide support and assistance for existing and
21 future programs of the Division of Forestry. These programs
22 must be consistent with the division's mission statement which
23 is incorporated by reference. The purpose of the program is
24 to:

25 (1) Conduct programs and activities related to
26 environmental education, fire prevention, recreation, and
27 forest management.

28 (2) Identify and pursue methods to provide resources
29 and materials for these programs.

30 (3) Establish a statewide method to integrate these
31 resources and materials.

1 Section 6. Section 589.013, Florida Statutes, is
2 created to read:

3 589.013 Direct-support organization.--

4 (1) The Department of Agriculture and Consumer
5 Services is authorized to create a direct-support organization
6 to provide assistance to the Friends of Florida State Forests
7 Program of the Division of Forestry.

8 (2) The direct-support organization shall be governed
9 by the provisions of ss. 570.902 and 570.903 for the direct or
10 indirect benefit of the Division of Forestry or individual
11 units within the division.

12 Section 7. Section 590.01, Florida Statutes, is
13 amended to read:

14 590.01 Protection of forests and wild land.--The
15 Division of Forestry of the Department of Agriculture and
16 Consumer Services has the primary responsibility for forest
17 and wild land fire protection. The division shall provide
18 leadership and direction in the evaluation, coordination, and
19 monitoring of wildfire management and protection, which
20 reduces threats to life and property, forest and wild land
21 resources, and other related values at risk. The division
22 shall promote natural resource management and wild land and
23 forest fuel reduction through the use of prescribed fire. The
24 division may designate and establish protection districts in
25 areas declared to need additional protection.~~Whenever it~~
26 ~~shall appear to the Division of Forestry of the Department of~~
27 ~~Agriculture and Consumer Services, hereinafter called the~~
28 ~~division, from investigation, hearing or otherwise that areas~~
29 ~~in the state are in need of special protection from forest~~
30 ~~fires, the said division may designate and establish a forest~~
31 ~~protection district in such areas. The limits of each such~~

1 ~~fire protection district shall be defined by the division, and~~
2 ~~public notice of its establishment shall be published in some~~
3 ~~one or more newspapers of general circulation in the region~~
4 ~~affected, once each week for 3 successive weeks (three~~
5 ~~insertions), and such additional publicity shall be given to~~
6 ~~the establishment of said district as the division may deem~~
7 ~~necessary.~~

8 Section 8. Subsection (4) of section 590.02, Florida
9 Statutes, 1996 Supplement, is amended to read:

10 590.02 Division powers, authority, and duties; law
11 enforcement; liability; building structures.--

12 (4) The department may build structures,
13 notwithstanding chapters 216 and chapter 255, not to exceed a
14 cost of \$50,000 per structure from existing resources on
15 forest lands, federal excess property, and unneeded existing
16 structures. These structures must meet all applicable building
17 codes.

18 Section 9. Subsection (5) of section 590.026, Florida
19 Statutes, is amended to read:

20 590.026 Prescribed burning; requirements; liability.--

21 (5) REQUIREMENTS; LIABILITY.--

22 (a) Prescribed burning conducted under the provisions
23 of this section shall:

24 1. Be accomplished only when at least one certified
25 prescribed burn manager is present on site while the burn is
26 being conducted.

27 2. Require that a written prescription be prepared
28 prior to receiving authorization to burn from the Division of
29 Forestry.

30 3. Be considered in the public interest and shall not
31 constitute a public or private nuisance when conducted

1 pursuant to state air pollution statutes and rules applicable
2 to prescribed burning.

3 4. Be considered a property right of the property
4 owner if naturally occurring vegetative fuels are used and
5 when conducted pursuant to the requirements of this section
6 subsection.

7 (b) No property owner or his agent, conducting a
8 prescribed burn pursuant to the requirements of this section
9 subsection, shall be liable for damage or injury caused by
10 fire or resulting smoke, unless negligence is proven.

11 Section 10. Subsection (1) of section 601.58, Florida
12 Statutes, is amended to read:

13 601.58 Application approval or disapproval.--

14 (1) Each citrus fruit dealer's license application
15 which is approved, or approved subject to conditions, shall be
16 forwarded immediately to the Department of Agriculture and
17 Consumer Services, ~~Division of Fruit and Vegetables, Bureau of~~
18 ~~Citrus License and Bond~~, which shall, upon satisfaction of the
19 stated conditions, if any are endorsed thereon, issue to the
20 applicant an appropriate license as prescribed in s. 601.60.

21 Section 11. Subsection (1) of section 601.60, Florida
22 Statutes, is amended to read:

23 601.60 Issuance of dealers' licenses.--

24 (1) Whenever an application bears the approved
25 endorsement of the Department of Citrus and satisfactions of
26 conditions of approval, if any, and the applicant has paid the
27 prescribed fee, the Department of Agriculture and Consumer
28 Services shall issue to such applicant a license, as approved
29 by the Department of Citrus, which shall entitle the licensee
30 to do business as a citrus fruit dealer during the effective
31 term of such license in accordance with s. 601.55 or until

1 such license may be suspended or revoked by the Department of
2 Agriculture and Consumer Services in accordance with the
3 provisions of law. The Department of Agriculture and Consumer
4 Services may refuse to issue a license to an applicant who:
5 (a) Is under investigation for an action that would
6 constitute a violation of this chapter; or
7 (b) Has pending against such applicant an
8 administrative or civil proceeding which alleges an action
9 that would constitute a violation of this chapter.

10 Section 12. Subsections (2) and (4) of section 601.67,
11 Florida Statutes, are renumbered as subsections (3) and (5),
12 respectively, subsection (3) is renumbered as subsection (4)
13 and amended, and a new subsection (2) is added to said
14 section, to read:

15 601.67 Disciplinary action by Department of
16 Agriculture and Consumer Services against citrus fruit
17 dealers.--

18 (2) The department may impose a fine not exceeding
19 \$50,000 per violation against any person who operates as a
20 citrus fruit dealer without a current citrus fruit dealer
21 license issued by the department pursuant to s. 601.60. In
22 addition, the department may order such person to cease and
23 desist operating as a citrus fruit dealer without a license.
24 An administrative order entered by the department under this
25 subsection may be enforced pursuant to s. 601.73.

26 (4)~~(3)~~ Any fine imposed pursuant to subsection (1), or
27 subsection (2), or subsection (3), when paid, shall be
28 deposited by the Department of Agriculture and Consumer
29 Services into its General Inspection Trust Fund.

30 Section 13. Subsection (9) of section 602.065, Florida
31 Statutes, 1996 Supplement, is amended to read:

1 602.065 Citrus canker claims; procedures.--
2 (9) The Department of Legal Affairs shall provide
3 representation and assistance to the Office of Citrus Canker
4 Claims and may provide representation to any state agency
5 affected by this act. The Department of Legal Affairs shall
6 also take all necessary and appropriate action determined to
7 be available to ensure that the Federal Government releases to
8 the State of Florida any available funds which reimburse the
9 state the Federal Government's share of the costs arising from
10 the eradication of citrus canker. All funds received by the
11 state from the Federal Government to reimburse the state for
12 its share of the costs arising from the eradication of the
13 citrus canker shall be deposited in the Plant Industry Trust
14 Fund and shall be used only for the eradication of citrus
15 canker.~~divided and deposited in the following proportions:~~
16 ~~(a) Fifty percent into the General Revenue Fund; and~~
17 ~~(b) Fifty percent into the Citrus Advertising Trust~~
18 ~~Fund.~~

19 Section 14. Subsection (3) of section 604.15, Florida
20 Statutes, is amended to read:

21 604.15 Dealers in agricultural products;
22 definitions.--For the purpose of ss. 604.15-604.34, the
23 following words and terms, when used, shall be construed to
24 mean:

25 (3) "Agricultural products" means the natural products
26 of the farm, nursery, grove, orchard, vineyard, garden, and
27 apiary (raw or manufactured); livestock; milk and milk
28 products; poultry and poultry products; the fruit of the saw
29 palmetto (meaning the fruit of the Serenoa repens);and limes
30 (meaning the fruit Citrus aurantifolia, variety Persian,
31 Tahiti, Bearss, or Florida Key limes) produced in the state,

1 except tobacco, tropical foliage, sugarcane, and citrus other
2 than limes.

3 Section 15. Subsections (2) and (4) of section 215.20,
4 Florida Statutes, 1996 Supplement, are amended to read:

5 215.20 Certain income and certain trust funds to
6 contribute to the General Revenue Fund.--

7 (2) Notwithstanding the provisions of subsection (1),
8 funds collected for ~~peanut, soybean, or tobacco marketing~~
9 ~~orders pursuant to chapter 570~~ and the Florida Citrus
10 Advertising Trust Fund shall be subject to a 3-percent service
11 charge, to be deposited in the General Revenue Fund.

12 (3) A service charge of 0.3 percent shall be deducted
13 from income of a revenue nature deposited in the trust funds
14 enumerated in subsection (4). Income of a revenue nature
15 shall include all earnings received or credited by such trust
16 funds, including the interest or benefit received from the
17 investment of the principal of such trust funds as may be
18 permitted by law. This provision shall be construed in favor
19 of the General Revenue Fund in each instance. All such
20 deductions shall be deposited in the General Revenue Fund.

21 (4) The income of a revenue nature deposited in the
22 following described trust funds, by whatever name designated,
23 is that from which the deductions authorized by subsection (3)
24 shall be made:

25 (a) The Fuel Tax Collection Trust Fund created by s.
26 206.875.

27 (b) All income derived from outdoor advertising and
28 overweight violations which is deposited in the State
29 Transportation Trust Fund created by s. 206.46.

30 (c) All taxes levied on motor fuels other than
31 gasoline levied pursuant to the provisions of s. 206.87(1)(a).

- 1 (d) The State Alternative Fuel User Fee Clearing Trust
2 Fund established pursuant to s. 206.879(1).
3 (e) The Local Alternative Fuel User Fee Clearing Trust
4 Fund established pursuant to s. 206.879(2).
5 (f) The Cigarette Tax Collection Trust Fund created by
6 s. 210.20.
7 (g) The Nonmandatory Land Reclamation Trust Fund
8 established pursuant to s. 211.3103.
9 (h) The Phosphate Research Trust Fund established
10 pursuant to s. 211.3103.
11 (i) The Land Reclamation Trust Fund established
12 pursuant to s. 211.32(1)(f).
13 (j) The Educational Certification and Service Trust
14 Fund created by s. 231.30.
15 (k) The trust funds administered by the Division of
16 Historical Resources of the Department of State.
17 (l) The Marine Resources Conservation Trust Fund
18 created by s. 370.0608, with the exception of those fees
19 collected for recreational saltwater fishing licenses as
20 provided in s. 370.0605.
21 (m) The Local Option Fuel Tax Trust Fund created
22 pursuant to s. 336.025.
23 (n) The Florida Public Service Regulatory Trust Fund
24 established pursuant to s. 350.113.
25 (o) The State Game Trust Fund established by s.
26 372.09.
27 (p) The Special Disability Trust Fund created by s.
28 440.49.
29 (q) The Workers' Compensation Administration Trust
30 Fund created by s. 440.50(1)(a).
31

1 (r) The Employment Security Administration Trust Fund
2 created by s. 443.211(1).

3 (s) The Special Employment Security Administration
4 Trust Fund created by s. 443.211(2).

5 (t) The Professional Regulation Trust Fund established
6 pursuant to s. 455.219.

7 (u) The Speech-Language Pathology and Audiology Trust
8 Fund.

9 (v) The Division of Licensing Trust Fund established
10 pursuant to s. 493.6117.

11 (w) The Division of Florida Land Sales, Condominiums,
12 and Mobile Homes Trust Fund established pursuant to s.
13 498.019.

14 (x) The trust fund of the Division of Hotels and
15 Restaurants, as defined in s. 509.072, with the exception of
16 those fees collected for the purpose of funding of the
17 hospitality education program as stated in s. 509.302.

18 (y) The trust funds administered by the Division of
19 Pari-mutuel Wagering and the Florida Quarter Horse Racing
20 Promotion Trust Fund.

21 ~~(z) The General Inspection Trust Fund and subsidiary~~
22 ~~accounts thereof, unless a different percentage is authorized~~
23 ~~by s. 570.20.~~

24 (z)~~(aa)~~ The Florida Citrus Advertising Trust Fund
25 created by s. 601.15(7), including transfers from any
26 subsidiary accounts thereof, unless a different percentage is
27 authorized in that section.

28 (aa)~~(bb)~~ The Agents and Solicitors County Tax Trust
29 Fund created by s. 624.506.

30 (bb)~~(cc)~~ The Insurance Commissioner's Regulatory Trust
31 Fund created by s. 624.523.

1 (cc)~~(dd)~~ The Financial Institutions' Regulatory Trust
2 Fund established pursuant to s. 655.049.
3 (dd)~~(ee)~~ The Crimes Compensation Trust Fund
4 established pursuant to s. 960.21.
5 (ee)~~(ff)~~ The Records Management Trust Fund established
6 pursuant to s. 257.375.
7 (ff)~~(gg)~~ The Alcoholic Beverage and Tobacco Trust Fund
8 established pursuant to s. 561.025.
9 (gg)~~(hh)~~ The Health Care Trust Fund established
10 pursuant to s. 455.2205.
11 (hh)~~(ii)~~ The Police and Firefighters' Premium Tax
12 Trust Fund established within the Division of Retirement of
13 the Department of Management Services.
14
15 The enumeration of the foregoing moneys or trust funds shall
16 not prohibit the applicability thereto of s. 215.24 should the
17 Governor determine that for the reasons mentioned in s. 215.24
18 the money or trust funds should be exempt herefrom, as it is
19 the purpose of this law to exempt income from its force and
20 effect when, by the operation of this law, federal matching
21 funds or contributions or private grants to any trust fund
22 would be lost to the state.
23 Section 16. Section 215.22, Florida Statutes, 1996
24 Supplement, is amended to read:
25 215.22 Certain income and certain trust funds
26 exempt.--
27 (1) The following income of a revenue nature or the
28 following trust funds shall be exempt from the deduction
29 required by s. 215.20(1):
30 (a) Student financial aid or prepaid tuition receipts.
31

- 1 (b) Trust funds administered by the Department of the
2 Lottery.
- 3 (c) Departmental administrative assessments for
4 administrative divisions.
- 5 (d) Funds charged by a state agency for services
6 provided to another state agency, by a state agency for
7 services provided to the judicial branch, or by the judicial
8 branch for services provided to a state agency.
- 9 (e) State, agency, or political subdivision
10 investments by the Treasurer.
- 11 (f) Retirement or employee benefit funds.
- 12 (g) Self-insurance programs administered by the
13 Treasurer.
- 14 (h) Funds held for the payment of citrus canker
15 eradication and compensation.
- 16 (i) Medicaid, Medicare, or third-party receipts for
17 client custodial care.
- 18 (j) Bond proceeds or revenues dedicated for bond
19 repayment, except for the Documentary Stamp Clearing Trust
20 Fund administered by the Department of Revenue.
- 21 (k) Trust funds administered by the Department of
22 Education.
- 23 (l) Trust funds administered by the Department of
24 Transportation.
- 25 (m) Trust funds administered by the Department of
26 Agriculture and Consumer Services.
- 27 (n) The Motor Vehicle License Clearing Trust Fund.
- 28 (o) The Solid Waste Management Trust Fund.
- 29 (p) The Coconut Grove Playhouse Trust Fund.
- 30 (q) The Communications Working Capital Trust Fund of
31 the Department of Management Services.

1 (r) The Camp Blanding Management Trust Fund.

2 (2) Moneys and income of a revenue nature shared with
3 political subdivisions or received from taxes or fees
4 authorized to be levied by any political subdivision shall be
5 exempt from the deduction required by s. 215.20(1).

6 (3) In addition to the exemptions enumerated in
7 subsections (1) and (2), the Executive Office of the Governor
8 is authorized to exempt any income when, by the operation of
9 this law and pursuant to s. 215.24, federal matching funds or
10 contributions or private grants to any trust fund would be
11 lost to the state.

12 (4) Notwithstanding the exemptions granted in
13 subsections (1), (2), and (3), this section shall not exempt
14 income of a revenue nature or any trust fund which was subject
15 to the service charge pursuant to s. 215.20 on January 1,
16 1990, except for the trust funds specified in paragraph
17 (1)(m).

18 Section 17. Paragraphs (b) through (p) of subsection
19 (1) of section 500.03, Florida Statutes, are redesignated as
20 paragraphs (f) through (t), respectively, paragraphs (q), (r),
21 and (s) are redesignated as paragraphs (x), (y), and (z),
22 respectively, and new paragraphs (b), (c), (d), (e), (u), (v),
23 and (w) are added to said subsection to read:

24 500.03 Definitions of terms; construction;
25 applicability.--

26 (1) For the purpose of this chapter, the term:

27 (b) "Approved laboratory" or "certified laboratory"
28 means a laboratory of the department, a commercial laboratory
29 certified by the Department of Health, or a competent
30 commercial laboratory certified by an agency of another state
31 or the United States Environmental Protection Agency to

1 perform analyses of drinking water in accordance with the
2 water quality testing procedures adopted by the United States
3 Environmental Protection Agency.

4 (c) "Approved source" as it relates to water means a
5 source of water, whether it is a spring, artesian well,
6 drilled well, municipal water supply, or any other source,
7 that complies with the Federal Safe Drinking Water Act, Pub.
8 L. No. 93-523, as amended.

9 (d) "Bottled water" means a beverage as described in
10 Title 21 of the Code of Federal Regulations, Part 165 (1996),
11 that is processed in compliance with Title 21 of the Code of
12 Federal Regulations, Part 129 (1996).

13 (e) "Bottled water plant" means a food establishment
14 in which bottled water is prepared for sale.

15 (u) "Natural water" means bottled spring water,
16 artesian well water, or well water that has not been altered
17 with water from another source or that has not been modified
18 by mineral addition or deletion, except for alteration that is
19 necessary to treat the water through ozonation or an
20 equivalent disinfection and filtration process.

21 (v) "Packaged ice" means ice that is enclosed in a
22 container and is offered for sale for human consumption or for
23 other use by the consumer. The term does not include ice that
24 is manufactured by any business licensed under chapter 381 or
25 chapter 509.

26 (w) "Packaged ice plant" means a food establishment in
27 which packaged ice is manufactured or processed.

28 Section 18. For the purpose of incorporating the
29 amendments to sections 500.12 and 500.147, Florida Statutes,
30 in references thereto, subsections (4) and (6) of section
31 500.04, Florida Statutes, are reenacted to read:

1 500.04 Prohibited acts.--The following acts and the
2 causing thereof within the state are prohibited:

3 (4) The sale, delivery for sale, holding for sale, or
4 offering for sale of any article in violation of s. 500.12.

5 (6) The refusal to permit entry or inspection, or to
6 permit the taking of a sample, as authorized by s. 500.147.

7 Section 19. Paragraph (g) of subsection (1) of section
8 500.11, Florida Statutes, is amended, and paragraph (o) is
9 added to said subsection, to read:

10 500.11 Food deemed misbranded.--

11 (1) A food is deemed to be misbranded:

12 (g) If it purports to be or is represented as a food
13 for which a definition and standard of identity has been
14 prescribed by statute or by rules as provided by s. 500.09,
15 unless:

16 1. It conforms to such definition and standard; and

17 2. Its label bears the name of the food specified in
18 the definition and standard and, insofar as may be required by
19 such rules, the common names of optional ingredients (other
20 than spices, flavoring, and coloring) present in such food.

21 (o) If it is bottled water and its label bears a
22 corporate name, brand name, or trademark containing the word
23 "spring," "springs," "well," "artesian well," "natural," or
24 any derivative of those words without stating on the label the
25 source of the water in typeface at least equal to the size of
26 the typeface of the corporate name, brand name, or trademark,
27 if the source of the water is different from the source
28 indicated in the corporate name, brand name, or trademark.

29 Section 20. Paragraph (b) of subsection (1) of section
30 500.12, Florida Statutes, is amended, paragraphs (c) and (d)
31 of said subsection are redesignated as paragraphs (e) and (f),

1 respectively, and new paragraphs (c) and (d) are added to said
2 subsection, to read:

3 500.12 Food permits; building permits.--

4 (1)

5 (b) An application for a food permit from the
6 department must be accompanied by a fee in an amount
7 determined by department rule, which may not exceed \$350,
8 except that the fee accompanying an application for a food
9 permit for operating a bottled water plant may not exceed
10 \$1,000 and the fee accompanying an application for a food
11 permit for operating a packaged ice plant may not exceed \$250.
12 The fee for operating a bottled water plant or a packaged ice
13 plant shall be set by rule of the department in an amount
14 sufficient to meet, but not exceed, the total direct and
15 indirect costs incurred by the department in carrying out its
16 permitting, inspection, sampling, enforcement, and
17 administrative responsibilities for those operations. Food
18 permits must be renewed annually on or before January 1. If an
19 application for renewal of a food permit is not received by
20 the department within 30 days after its due date, a late fee,
21 in an amount not exceeding \$100, must be paid in addition to
22 the food permit fee before the department may issue the food
23 permit. The moneys collected shall be deposited in the General
24 Inspection Trust Fund.

25 (c) For bottled water plants:

26 1. Water that is transported into the state and that
27 is bottled before or after importation into the state must be
28 bottled, labeled, handled, and otherwise processed and sold
29 according to the provisions of this chapter.

30 2. An application for a food permit for operating a
31 bottled water plant must state the location of the bottled

1 water plant, the source of the water, and any other
2 information considered necessary by the department to verify
3 compliance with the safety, quality, and labeling requirements
4 of this chapter.

5 (d) For packaged ice plants:

6 1. Packaged ice that is transported into the state and
7 that is packaged before or after importation into the state
8 must be packaged, labeled, handled, and otherwise processed
9 and sold according to the provisions of this chapter.

10 2. An application for a food permit for operating a
11 packaged ice plant must state the location of the packaged ice
12 plant, the source of the water, the treatment the water
13 received prior to being made into ice and packaged, and any
14 other information considered necessary by the department to
15 verify compliance with the safety, quality, and labeling
16 requirements of this chapter.

17 (4)(a) The department may suspend immediately upon
18 notice any permit issued under this section if it finds that
19 any of the conditions of the permit have been violated. The
20 holder of a permit so suspended may at any time apply for the
21 reinstatement of such permit; and the department shall,
22 immediately after prompt hearing and an inspection of the
23 establishment, reinstate such permit if the department finds
24 that adequate measures have been taken to comply with and
25 maintain the conditions of the permit, as originally issued,
26 or as amended.

27 (b) The department shall have access to any food
28 establishment for the purpose of ascertaining compliance with
29 this section. Denial of access for such inspection is a ground
30 for suspending the permit until access to the food
31 establishment is freely given by the operator.

1 Section 21. For the purpose of incorporating the
2 amendment to section 500.12, Florida Statutes, in a reference
3 thereto, subsection (1) of section 500.121, Florida Statutes,
4 is reenacted to read:

5 500.121 Disciplinary procedures.--

6 (1) In addition to the suspension procedures provided
7 in s. 500.12, the department may impose a fine not exceeding
8 \$5,000 against any retail food store or food establishment
9 that has violated this chapter, which fine, when imposed and
10 paid, shall be deposited by the department into the General
11 Inspection Trust Fund. The department may revoke or suspend
12 the permit of any such retail food store or food establishment
13 if it is satisfied that the retail food store or food
14 establishment has:

15 (a) Violated any of the provisions of this chapter.

16 (b) Violated or aided or abetted in the violation of
17 any law of this state governing or applicable to retail food
18 stores or food establishments or any lawful rules of the
19 department.

20 (c) Knowingly committed, or been a party to, any
21 material fraud, misrepresentation, conspiracy, collusion,
22 trick, scheme, or device whereby any other person, lawfully
23 relying upon the word, representation, or conduct of a retail
24 food store or food establishment, acts to his injury or
25 damage.

26 (d) Committed any act or conduct of the same or
27 different character than that enumerated which constitutes
28 fraudulent or dishonest dealing.

29 Section 22. Subsection (3) of section 500.147, Florida
30 Statutes, is renumbered as subsection (5), and new subsections
31 (3) and (4) are added to said section to read:

1 500.147 Inspection of food establishments and
2 vehicles.--

3 (3) For bottled water plants:

4 (a) Bottled water must be from an approved source.

5 Bottled water must be processed in conformance with Title 21
6 of the Code of Federal Regulations, Part 129 (1996), and must
7 conform to Title 21 of the Code of Federal Regulations, Part
8 165 (1996). A person operating a bottled water plant shall be
9 responsible for all water sampling and analyses required by
10 this chapter.

11 (b) All microbiological, chemical, physical, or
12 radiological testing and analyses of source water and finished
13 product required by this chapter must be performed by an
14 approved laboratory. Records of the sampling and analyses
15 must be maintained on file at the plant for not less than 2
16 years and made available to the department upon request.

17 (4) For packaged ice plants:

18 (a) Water used in packaged ice must be from an
19 approved source. The finished product must meet the primary
20 water quality standards established under the Federal Safe
21 Drinking Water Act, Pub. L. No. 93-523, as amended. A person
22 operating a packaged ice plant shall be responsible for all
23 water sampling and analyses required by this chapter.

24 (b) All packaged ice plants must submit to an approved
25 laboratory, once every 3 months, a sample of each type of
26 finished product for microbiological analysis. The quarterly
27 laboratory analysis must include testing for fecal and total
28 coliform organisms. Total coliforms must not be greater than
29 2.2 organisms/100 ml. using the most probable number method or
30 not greater than 1 organism/100 ml. using the membrane
31 filtration method. Packaged ice must have no fecal

1 coliform-positive samples. All microbiological, chemical,
2 physical, or radiological analyses required by this chapter
3 must be performed by an approved laboratory.

4 (c) All records of sampling and analyses of source
5 water and finished product must be maintained by the plant for
6 a period of not less than 2 years and made available to the
7 department upon request.

8 Section 23. Section 500.171, Florida Statutes, is
9 amended to read:

10 500.171 Injunction to restrain violation.--In addition
11 to the remedies provided in this chapter and notwithstanding
12 the existence of any adequate remedy at law, the department
13 may bring an action to enjoin the violation or threatened
14 violation of any provision of this chapter, or rule adopted
15 under this chapter, in the circuit court of the county in
16 which the violation occurred or is about to occur. Upon the
17 department's presentation of competent and substantial
18 evidence to the court of the violation or threatened
19 violation, the court shall immediately issue the temporary or
20 permanent injunction sought by the department. The injunction
21 shall be issued without bond. A single act in violation of
22 any provision of this chapter shall be sufficient to authorize
23 the issuance of an injunction.~~In addition to the remedies~~
24 ~~herein provided, the department may apply to a circuit court~~
25 ~~for, and such court shall have jurisdiction upon hearing and~~
26 ~~for cause shown to grant, a temporary or permanent injunction~~
27 ~~restraining any person from violating any provision of s.~~
28 ~~500.04, irrespective of whether or not there exists an~~
29 ~~adequate remedy at law.~~

30 Section 24. Subsection (1) of section 500.177, Florida
31 Statutes, is reenacted to read:

1 500.177 Penalty for violation of s. 500.04;
2 dissemination of false advertisement.--

3 (1) Any person who violates any provision of s. 500.04
4 is guilty of a misdemeanor of the second degree, punishable as
5 provided in s. 775.082 or s. 775.083; but, if the violation is
6 committed after a conviction of such person under this section
7 has become final, such person is guilty of a misdemeanor of
8 the first degree, punishable as provided in s. 775.082 or s.
9 775.083.

10 Section 25. Subsections (3) and (5) of section
11 500.459, Florida Statutes, are renumbered as subsections (4)
12 and (6), respectively, subsections (2), (4), and (6) are
13 renumbered and amended, and a new subsection (2) is added to
14 said section, to read:

15 500.459 Water vending machines.--

16 (2) DEFINITIONS.--

17 (a) "Sanitized" means treated in conformity with Title
18 21 of the Code of Federal Regulations, Section 110.3 (1996).

19 (b) "Vended water" means water dispensed by means of a
20 water vending machine.

21 (c) "Water vending machine" means a self-service
22 device that, upon insertion of a coin or token or upon receipt
23 of payment by other means, dispenses a serving of water into a
24 container.

25 (d) "Water vending machine operator" means a person
26 who owns, leases, or manages, or is otherwise responsible for,
27 the operation of a water vending machine.

28 ~~(3)~~~~(2)~~ PERMITTING REQUIREMENTS.--

29 (a) Each person or public body that establishes,
30 maintains, or operates any water vending machine in the state
31 must secure an operating permit from the department each year.

1 (b) An application for an operating permit must be
2 made in writing to the department on forms provided by the
3 department and must be accompanied by a fee as provided in
4 subsection (4)~~(3)~~. The application must state the location of
5 each water vending machine, the source of the water to be
6 vended, the treatment the water will receive prior to being
7 vended, and any other information considered necessary by the
8 department.

9 (5)~~(4)~~ OPERATING STANDARDS.--

10 (a) A water vending machine operator must obtain a
11 permit prior to operating any water vending machine.

12 (b) Each water vending machine must be located indoors
13 or otherwise protected against tampering and vandalism and
14 must be located in an area that can be maintained in a clean
15 condition and in a manner that avoids insect and rodent
16 harborage. The floor upon which the water vending machine is
17 located should be smooth and of cleanable construction.

18 (c) The source of water supply must be an approved
19 public water system.

20 (d) Each water vending machine must have a ~~an approved~~
21 backflow prevention device that conforms with s. 553.06 and an
22 adequate system for collecting and handling dripping,
23 spillage, and overflow of water.

24 (e) All parts and surfaces of a water vending machine
25 with which water comes into contact must be made of nontoxic,
26 corrosion-resistant, nonabsorbent material capable of
27 withstanding repeated cleaning and sanitizing treatments.

28 (f) Each water vending machine must be maintained in a
29 clean and sanitary condition, free from rust, dirt, and
30 vermin.

31

1 (g) The vended water must receive treatment and
2 postdisinfection according to approved methods established by
3 rule of the department. Activated carbon, if used, must comply
4 with specifications for granular activated carbon used in
5 water treatment applications as established by rule of the
6 department.

7 (h) The vended water may not be described as "purified
8 water" unless the water conforms to the definition of that
9 term. Further, a water vending machine operator must not claim
10 that the vended water has medicinal or health-giving
11 properties and must not describe any vended water as "spring
12 water."

13 (i) The operator shall place on each water vending
14 machine, in a position clearly visible to customers, the
15 following information: the name and address of the operator;
16 the operating permit number; the fact that the water is
17 obtained from a public water supply; the method of treatment
18 used; the method of postdisinfection used; and a local or
19 toll-free telephone number that may be called for obtaining
20 further information, reporting problems, or making complaints.

21 (7)~~(6)~~ PENALTIES.--

22 (a) The department may deny, suspend, or revoke a
23 permit if it finds that there has been a substantial failure
24 to comply with this section or rules adopted under this
25 section.

26 (b) Any person who operates a water vending machine
27 without first obtaining an operating permit as required by
28 subsection(3)~~(2)~~, who operates a water vending machine in
29 violation of an order to discontinue operation, or who
30 maintains or operates a water vending machine after revocation
31 of the operating permit is guilty of a misdemeanor of the

1 second degree, punishable as provided in s. 775.082 or s.
2 775.083.

3 Section 26. Section 500.511, Florida Statutes, is
4 amended to read:

5 500.511 Fees; enforcement; preemption.--

6 (1) FEES.--All fees collected under s. 500.459 ~~ss.~~
7 ~~500.453-500.511~~ shall be deposited into the General Inspection
8 Trust Fund and shall be accounted for separately and used for
9 the sole purpose of administering the provisions of such ~~each~~
10 section ~~requiring a fee~~.

11 (2) ENFORCEMENT AND PENALTIES.--In addition to the
12 provisions contained in s. 500.459 ~~ss. 500.453-500.511~~, the
13 department may enforce s. 500.459 ~~ss. 500.453-500.511~~ in the
14 manner provided in s. 500.121. Any person who violates a
15 provision of s. 500.459 ~~ss. 500.453-500.511~~ or any rule
16 adopted under such section ~~sections~~ shall be punished as
17 provided in such sections. However, criminal penalties may not
18 be imposed against any person who violates a rule.

19 (3) PREEMPTION OF AUTHORITY TO REGULATE.--Regulation
20 of bottled water plants, ~~bottled water plant operators, water~~
21 ~~dealers, water vending machines, water vending machine~~
22 ~~operators, and packaged ice plants, packaged ice plant~~
23 ~~operators, and packaged ice dealers~~ is preempted by the state.
24 No county or municipality may adopt or enforce any ordinance
25 that regulates the licensure or operation of bottled water
26 plants, water vending machines, or packaged ice plants, unless
27 it is determined that unique conditions exist within the
28 county which require the county to regulate such entities in
29 order to protect the public health. This subsection does not
30 prohibit a county or municipality from requiring an
31 occupational license tax pursuant to chapter 205.

1 Section 27. Section 531.44, Florida Statutes, is
2 amended to read:

3 531.44 Misrepresentation of pricing; verification
4 procedures.--

5 (1) No person shall misrepresent the price of any
6 commodity or service sold or offered, exposed, or advertised
7 for sale by weight, measure, or count, nor represent the price
8 in any manner calculated or tending to mislead or in any way
9 deceive a person. Whenever an advertised, posted, or labeled
10 price per unit of weight, measure, or count includes a
11 fraction of a cent, all elements of a fraction shall be
12 prominently displayed, and the numeral or numerals expressing
13 the fraction shall be immediately adjacent to, of the same
14 general design and style as, and at least one-half the height
15 and width of, the numerals representing the whole cent.

16 (2) The department may adopt, by rule, sampling
17 procedures for determining acceptable pricing practices.
18 Sampling procedures for determining acceptable pricing
19 practices may include, but are not limited to, those
20 procedures adopted by the National Conference on Weights and
21 Measures.

22 Section 28. Section 531.50, Florida Statutes, is
23 amended to read:

24 531.50 Administrative fine,~~Offenses and penalties,~~
25 and offenses.--

26 (1) The department may enter an order imposing one or
27 more of the following penalties against any person who
28 violates any provision of this chapter or rule adopted under
29 this chapter or impedes, obstructs, or hinders the department
30 in the performance of its duties in connection with the
31 provisions of this chapter:

- 1 (a) Issuance of a warning letter or notice.
2 (b) Imposition of an administrative fine of:
3 1. Up to \$1,000 for a first violation;
4 2. Up to \$2,500 for a second violation within 2 years
5 after the first violation; or
6 3. Up to \$5,000 for a third violation within 2 years
7 after the first violation.

8
9 When imposing any fine under this section, the department
10 shall consider the degree and extent of potential harm caused
11 by the violation, the amount of money by which the violator
12 benefited from noncompliance, whether the violation was
13 committed willfully, and the compliance record of the
14 violator. All fines, monetary penalties, and costs received by
15 the department shall be deposited in the General Inspection
16 Trust Fund for the purpose of administering the provisions of
17 this chapter.

18 ~~(2)(1)~~ Any person who willfully and knowingly violates
19 ~~the provisions enumerated in subsection (2) or any provision~~
20 ~~of this chapter or rule rules adopted by the department~~
21 ~~pursuant to this chapter commits thereto for which a specific~~
22 ~~penalty has not been prescribed shall be guilty of a~~
23 misdemeanor of the second degree, punishable as provided in s.
24 775.082 or s. 775.083. Upon a subsequent conviction, a person
25 commits he shall be guilty of a misdemeanor of the first
26 degree, punishable as provided in s. 775.082 or s. 775.083.

27 ~~(3)(2)~~ No person shall:

28 (a) Use, or have in possession for use, in commerce
29 any weight or measure not approved or corrected as provided in
30 s. 531.41(12).

31

1 (b) Use or dispose of any rejected or condemned weight
2 or measure without specific authorization from the rejecting
3 authority.

4 (c) Remove any mark of rejection from a rejected
5 weight or measure without specific authorization from the
6 rejecting authority.

7 Section 29. Section 534.011, Florida Statutes, is
8 amended to read:

9 534.011 Inspection and protection of livestock;
10 jurisdiction of Department of Agriculture and Consumer
11 Services.--The inspection and protection of livestock in the
12 state are hereby placed under the jurisdiction of the
13 Department of Agriculture and Consumer Services, herein called
14 the "department." Fees collected pursuant to this chapter
15 shall be deposited in the General Inspection Trust Fund.

16 Section 30. Section 570.20, Florida Statutes, is
17 amended to read:

18 570.20 General Inspection Trust Fund.--All donations
19 and all inspection fees and other funds authorized and
20 received from whatever source in the enforcement of the
21 inspection laws administered by the department shall be paid
22 into the General Inspection Trust Fund of Florida, which is
23 created in the office of the Treasurer. All expenses incurred
24 in carrying out the provisions of the inspection laws shall be
25 paid from this fund as other funds are paid from the State
26 Treasury. ~~A percentage of all revenue deposited in this fund,~~
27 ~~including transfers from any subsidiary accounts, shall be~~
28 ~~deposited in the General Revenue Fund pursuant to chapter 215,~~
29 ~~except that funds collected for marketing orders shall pay at~~
30 ~~the rate of 3 percent.~~

31

1 Section 31. Subsection (2) of section 585.105, Florida
2 Statutes, 1996 Supplement, is amended to read:

3 585.105 Purchase, distribution, and administration of
4 approved brucella vaccine.--

5 (2) The department may ~~shall~~ distribute through
6 employees of the division, licensed veterinarians, and
7 recognized and approved agents of the state and federal
8 governments, an approved brucella vaccine without cost to any
9 owner of cattle in Florida making application therefor upon
10 blanks to be furnished by the department and approved by the
11 administrator of the vaccine if the cattle are part of a
12 recognized herd and are not in channels of trade at the time
13 of vaccination.

14 Section 32. Section 500.453, Florida Statutes, as
15 created by chapter 94-180, Laws of Florida, and sections
16 500.455, 500.457, and 500.509, Florida Statutes, as amended by
17 chapter 94-180, Laws of Florida, are hereby repealed.

18 Section 33. This act shall take effect upon becoming a
19 law.

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