

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; amending s.  
8           581.185, F.S.; creating the Endangered or  
9           Threatened Native Flora Conservation Grants  
10          Program in the Department of Agriculture and  
11          Consumer Services to provide grants for the  
12          protection, curation, propagation,  
13          reintroduction, and monitoring of endangered or  
14          threatened native flora; clarifying the scope  
15          of the Regulated Plant Index; abrogating the  
16          repeal of s. 581.186, F.S., relating to the  
17          Endangered Plant Advisory Council; amending s.  
18          589.011, F.S.; authorizing the Division of  
19          Forestry to prohibit certain activities and  
20          providing penalties; authorizing leasing of  
21          property and structures to telecommunications  
22          providers; authorizing fees; creating s.  
23          589.012, F.S.; creating the Friends of Florida  
24          State Forests Program; providing purpose;  
25          creating s. 589.013, F.S.; authorizing a  
26          direct-support organization for the Friends of  
27          Florida State Forests Program; amending s.  
28          590.01, F.S.; providing Division of Forestry  
29          responsibility for forest and wild land fire  
30          protection; amending s. 590.02, F.S.;  
31          clarifying that a specific appropriation is not

1 needed to build certain structures; amending s.  
2 590.026, F.S.; clarifying requirements for  
3 prescribed burning; amending s. 601.58, F.S.;  
4 revising procedures relating to approval of a  
5 citrus fruit dealer's license application;  
6 amending s. 601.60, F.S.; authorizing the  
7 department to issue a provisional license;  
8 amending s. 601.67, F.S.; authorizing a fine  
9 against a person who operates as a citrus fruit  
10 dealer without a license; amending s. 602.065,  
11 F.S.; revising provisions relating to the  
12 deposit of certain funds for the eradication of  
13 citrus canker; amending s. 604.15, F.S.;  
14 revising definition of the term "agricultural  
15 products"; amending s. 500.03, F.S.; providing  
16 definitions relating to food products;  
17 reenacting s. 500.04(4) and (6), F.S., relating  
18 to prohibited acts, to incorporate amendments  
19 to ss. 500.12 and 500.147, F.S., in references;  
20 amending s. 500.11, F.S., relating to  
21 misbranded food; clarifying language; adding  
22 bottled water requirements; amending s. 500.12,  
23 F.S., relating to food and building permits;  
24 including existing fees for permits for  
25 operating bottled water plants or packaged ice  
26 plants; providing requirements; amending s.  
27 500.121, F.S., relating to disciplinary  
28 procedures; providing for a fine for  
29 mislabeling; amending s. 500.147, F.S.;  
30 inserting inspection language for bottled water  
31 plants and packaged ice plants; authorizing a

1 food safety inspection pilot program; providing  
 2 criteria for the program; amending s. 500.171,  
 3 F.S.; revising provisions authorizing an  
 4 injunction; reenacting s. 500.177(1), F.S.;  
 5 providing a penalty; amending s. 500.459, F.S.;  
 6 providing definitions relating to water vending  
 7 machines and conforming a requirement to the  
 8 State 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. 526.3135, F.S.;  
 13 clarifying compilation of a report; amending s.  
 14 531.44, F.S.; establishing authority to set  
 15 procedures for verifying acceptable pricing  
 16 practices; amending s. 531.50, F.S.;  
 17 authorizing penalties for violation of  
 18 provisions relating to weights and measures;  
 19 providing for deposit of funds; amending s.  
 20 534.011, F.S.; providing for deposit of fees  
 21 relating to the inspection and protection of  
 22 livestock; amending s. 253.68, F.S.; modifying  
 23 a requirement that precludes the Board of  
 24 Trustees of the Internal Improvement Trust Fund  
 25 from granting a lease for aquaculture  
 26 activities in areas objected to by resolution  
 27 of the county commission; repealing ss.  
 28 500.453, 500.455, 500.457, and 500.509, F.S.,  
 29 relating to bottled water and packaged ice  
 30 regulation; providing for a state facility  
 31 designation; providing an effective date.

1 Be It Enacted by the Legislature of the State of Florida:

2

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

5 581.011 Definitions.--As used in this chapter:

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

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

13 581.182 Citrus plants and citrus plant products from  
14 other states, territories, or foreign countries.--

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

20 (b) The clones introduced must:

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

25 2. Be of a type desirable:

26 a. For research; or

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

29 (f) When tests are completed, new clones will be  
30 evaluated by the Citrus Budwood Technical Advisory  
31 ~~Registration~~ Committee. If the committee recommends the

1 release and distribution of any clone to the industry, a  
2 portion of this clone will be validated and maintained in a  
3 Division of Plant Industry planting.

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

10 Section 3. Paragraph (d) is added to subsection (9) of  
11 section 581.185, Florida Statutes, and subsections (11) and  
12 (12) are added to said section, to read:

13 581.185 Preservation of native flora of Florida.--

14 (9) DUTIES AND AUTHORITY OF DEPARTMENT.--The  
15 department shall:

16 (d) Have the authority to issue grants to support the  
17 preservation and propagation of native plant species of the  
18 state that are endangered or threatened as defined in this  
19 section.

20 (11) GRANTS PROGRAM.--

21 (a) There is created within the department an  
22 Endangered or Threatened Native Flora Conservation Grants  
23 Program to contract with qualified corporations in the private  
24 sector for the purpose of providing recognition of those flora  
25 native to the state that are endangered or threatened; and, to  
26 encourage, within a controlled program, the protection,  
27 curation, propagation, reintroduction, and monitoring of  
28 native flora that are identified as endangered or threatened.

29 (b) The Division of Plant Industry in the Department  
30 of Agriculture and Consumer Services may accept and administer  
31 moneys appropriated to it for providing grants to qualifying

1 nonprofit corporations for the protection, curation,  
2 propagation, reintroduction, and monitoring of endangered or  
3 threatened native flora.

4 (c) A qualified corporation may apply for a grant of  
5 state funds to support programs designed to protect, conserve,  
6 propagate, reintroduce, and monitor endangered or threatened  
7 native flora. For the purposes of this section, a "qualified  
8 corporation" is a corporation that is designated a  
9 not-for-profit corporation under s. 501(c)(3) of the Internal  
10 Revenue Code of 1954, and which is described in, and allowed  
11 to receive contributions under, s. 170 of the Internal Revenue  
12 Code of 1954, and which is a corporation not-for-profit  
13 incorporated under chapter 617, and which can demonstrate  
14 through experience with existing conservation programs the  
15 ability to protect, conserve, propagate, reintroduce, and  
16 monitor endangered and threatened native flora.

17 (d) The department shall establish, by rule, criteria  
18 for the award of grants, including criteria evaluating:

19 1. Existing conservation experience with endangered or  
20 threatened native flora;

21 2. Existing facilities appropriate for program needs;

22 3. Existing programs administered by the corporation  
23 that successfully protect, conserve, propagate, reintroduce,  
24 and monitor native flora;

25 4. Existing recordkeeping and documentation that is  
26 accessible to national databases of endangered and threatened  
27 plants;

28 5. Qualified staff with demonstrated experience in  
29 native plant conservation;

30 6. Documentation of collaboration with related state,  
31 national, or international conservation programs;

1           7. Successful experience propagating and reintroducing  
2 endangered or threatened native flora;

3           8. Public exhibit programs publicizing the  
4 conservation of native species and the importance of the  
5 conservation effort; and

6           9. Fiscal stability and ability to match grant  
7 funding.

8           (e)1. Upon appropriation by the Legislature of funds  
9 for the Endangered or Threatened Native Flora Grants Program,  
10 the department shall execute a contract with each  
11 organization, which must contain information relative to the  
12 program and other provisions considered necessary by the  
13 department for the administration of the program.

14           2. Each recipient corporation must submit an annual  
15 report to the Division of Plant Industry detailing the  
16 expenditure of funds.

17           3. The department may grant moneys in advance for  
18 programs for which grants are issued, under a grant agreement  
19 or a contract.

20           (f) Each grant recipient shall cause an annual  
21 postaudit to be conducted by an independent certified public  
22 accountant. The annual audit report must be submitted to the  
23 department for review. The department may require from the  
24 grant recipient any detail or supplemental data relative to  
25 the operation of the corporation.

26           (g) The department shall adopt rules necessary to  
27 administer this subsection.

28           (12) REGULATED PLANT INDEX.--The Regulated Plant Index  
29 is to be used solely to restrict unlawful harvesting of native  
30 flora without the authorization of the landowner. The  
31 Regulated Plant Index is not to be used to regulate

1 construction or other land alteration activities on any  
2 property.

3 Section 4. Section 3 of chapter 92-153, Laws of  
4 Florida, is hereby repealed.

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

7 589.011 Use of state forest lands; fees; rules.--

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

21 (6) The Division of Forestry may enter into contracts  
22 or agreements, with or without competitive bidding or  
23 procurement, to make available, on a fair, reasonable, and  
24 nondiscriminatory basis, property and other structures under  
25 division control for the placement of new facilities by any  
26 wireless provider of mobile service as defined in 47 U.S.C. s.  
27 153(n) or 47 U.S.C. s. 332(d) or any telecommunications  
28 company as defined in s. 364.02 when it is determined to be  
29 practical and feasible to make such property or other  
30 structures available. The division may, without adopting a  
31 rule, charge a just, reasonable, and nondiscriminatory fee for



1 the placement of the facilities, payable annually, based on  
2 the fair market value of space used by comparable  
3 communications facilities in the state. The division and a  
4 wireless provider or telecommunications company may negotiate  
5 the reduction or elimination of a fee in consideration of  
6 services provided to the division by the wireless provider or  
7 telecommunications company. All such fees collected by the  
8 division shall be deposited in the Incidental Trust Fund.

9 Section 6. Section 589.012, Florida Statutes, is  
10 created to read:

11 589.012 Friends of Florida State Forests Program.--The  
12 Friends of Florida State Forests Program is established within  
13 the Department of Agriculture and Consumer Services. Its  
14 purpose is to provide support and assistance for existing and  
15 future programs of the Division of Forestry. These programs  
16 must be consistent with the division's mission statement which  
17 is incorporated by reference. The purpose of the program is  
18 to:

19 (1) Conduct programs and activities related to  
20 environmental education, fire prevention, recreation, and  
21 forest management.

22 (2) Identify and pursue methods to provide resources  
23 and materials for these programs.

24 (3) Establish a statewide method to integrate these  
25 resources and materials.

26 Section 7. Section 589.013, Florida Statutes, is  
27 created to read:

28 589.013 Direct-support organization.--

29 (1) The Department of Agriculture and Consumer  
30 Services is authorized to create a direct-support organization

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1 to provide assistance to the Friends of Florida State Forests  
2 Program of the Division of Forestry.

3 (2) The direct-support organization shall be governed  
4 by the provisions of ss. 570.902 and 570.903 for the direct or  
5 indirect benefit of the Division of Forestry or individual  
6 units within the division.

7 Section 8. Section 590.01, Florida Statutes, is  
8 amended to read:

9 590.01 Protection of forests and wild land.--The  
10 Division of Forestry of the Department of Agriculture and  
11 Consumer Services has the primary responsibility for forest  
12 and wild land fire protection. The division shall provide  
13 leadership and direction in the evaluation, coordination, and  
14 monitoring of wildfire management and protection, which  
15 reduces threats to life and property, forest and wild land  
16 resources, and other related values at risk. The division  
17 shall promote natural resource management and wild land and  
18 forest fuel reduction through the use of prescribed fire. The  
19 division may designate and establish protection districts in  
20 areas declared to need additional protection.~~Whenever it~~  
21 ~~shall appear to the Division of Forestry of the Department of~~  
22 ~~Agriculture and Consumer Services, hereinafter called the~~  
23 ~~division, from investigation, hearing or otherwise that areas~~  
24 ~~in the state are in need of special protection from forest~~  
25 ~~fires, the said division may designate and establish a forest~~  
26 ~~protection district in such areas. The limits of each such~~  
27 ~~fire protection district shall be defined by the division, and~~  
28 ~~public notice of its establishment shall be published in some~~  
29 ~~one or more newspapers of general circulation in the region~~  
30 ~~affected, once each week for 3 successive weeks (three~~  
31 ~~insertions), and such additional publicity shall be given to~~

1 ~~the establishment of said district as the division may deem~~  
2 ~~necessary.~~

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

5 590.02 Division powers, authority, and duties; law  
6 enforcement; liability; building structures.--

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

13 Section 10. Subsection (5) of section 590.026, Florida  
14 Statutes, is amended to read:

15 590.026 Prescribed burning; requirements; liability.--

16 (5) REQUIREMENTS; LIABILITY.--

17 (a) Prescribed burning conducted under the provisions  
18 of this section shall:

19 1. Be accomplished only when at least one certified  
20 prescribed burn manager is present on site while the burn is  
21 being conducted.

22 2. Require that a written prescription be prepared  
23 prior to receiving authorization to burn from the Division of  
24 Forestry.

25 3. Be considered in the public interest and shall not  
26 constitute a public or private nuisance when conducted  
27 pursuant to state air pollution statutes and rules applicable  
28 to prescribed burning.

29 4. Be considered a property right of the property  
30 owner if naturally occurring vegetative fuels are used and  
31

1 when conducted pursuant to the requirements of this section  
2 subsection.

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

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

9 601.58 Application approval or disapproval.--

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

17 Section 12. Subsection (1) of section 601.60, Florida  
18 Statutes, is amended to read:

19 601.60 Issuance of dealers' licenses.--

20 (1) Whenever an application bears the approved  
21 endorsement of the Department of Citrus and satisfactions of  
22 conditions of approval, if any, and the applicant has paid the  
23 prescribed fee, the Department of Agriculture and Consumer  
24 Services shall issue to such applicant a license, as approved  
25 by the Department of Citrus, which shall entitle the licensee  
26 to do business as a citrus fruit dealer during the effective  
27 term of such license in accordance with s. 601.55 or until  
28 such license may be suspended or revoked by the Department of  
29 Agriculture and Consumer Services in accordance with the  
30 provisions of law. The Department of Agriculture and Consumer  
31 Services may issue a provisional license for a period of no

1 longer than 1 year to an applicant who is under investigation  
 2 for an action that would constitute a violation of this  
 3 chapter or has pending against such applicant an  
 4 administrative or civil proceeding which alleges an action  
 5 that would constitute a violation of this chapter. The  
 6 department shall establish by rule requirements for renewal of  
 7 a provisional license. When the investigation is complete or  
 8 the pending proceeding has been disposed of, the department  
 9 may issue a regular license under this section.

10 Section 13. 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 \$100,000 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 14. 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 15. 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 16. Paragraphs (b) through (p) of subsection  
4 (1) of section 500.03, Florida Statutes, are redesignated as  
5 paragraphs (f) through (t), respectively, paragraphs (q), (r),  
6 and (s) are redesignated as paragraphs (x), (y), and (z),  
7 respectively, and new paragraphs (b), (c), (d), (e), (u), (v),  
8 and (w) are added to said subsection to read:

9 500.03 Definitions of terms; construction;  
10 applicability.--

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

12 (b) "Approved laboratory" or "certified laboratory"  
13 means a laboratory of the department, a commercial laboratory  
14 certified by the Department of Health, or a competent  
15 commercial laboratory certified by an agency of another state  
16 or the United States Environmental Protection Agency to  
17 perform analyses of drinking water in accordance with the  
18 water quality testing procedures adopted by the United States  
19 Environmental Protection Agency.

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

25 (d) "Bottled water" means a beverage as described in  
26 Title 21 of the Code of Federal Regulations, Part 165 (1996),  
27 that is processed in compliance with Title 21 of the Code of  
28 Federal Regulations, Part 129 (1996).

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

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1           (u) "Natural water" means bottled spring water,  
2 artesian well water, or well water that has not been altered  
3 with water from another source or that has not been modified  
4 by mineral addition or deletion, except for alteration that is  
5 necessary to treat the water through ozonation or an  
6 equivalent disinfection and filtration process.

7           (v) "Packaged ice" means ice that is enclosed in a  
8 container and is offered for sale for human consumption or for  
9 other use by the consumer. The term does not include ice that  
10 is manufactured by any business licensed under chapter 381 or  
11 chapter 509.

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

14           Section 17. For the purpose of incorporating the  
15 amendments to sections 500.12 and 500.147, Florida Statutes,  
16 in references thereto, subsections (4) and (6) of section  
17 500.04, Florida Statutes, are reenacted to read:

18           500.04 Prohibited acts.--The following acts and the  
19 causing thereof within the state are prohibited:

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

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

24           Section 18. Paragraph (g) of subsection (1) of section  
25 500.11, Florida Statutes, is amended, and paragraph (o) is  
26 added to said subsection, to read:

27           500.11 Food deemed misbranded.--

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

29           (g) If it purports to be or is represented as a food  
30 for which a definition and standard of identity has been  
31



1 prescribed by statute or by rules as provided by s. 500.09,  
2 unless:

- 3 1. It conforms to such definition and standard; and
- 4 2. Its label bears the name of the food specified in  
5 the definition and standard and, insofar as may be required by  
6 such rules, the common names of optional ingredients (other  
7 than spices, flavoring, and coloring) present in such food.

8 (o) If it is bottled water and its label bears a  
9 corporate name, brand name, or trademark containing the word  
10 "spring," "springs," "well," "artesian well," "natural," or  
11 any derivative of those words without stating on the label the  
12 source of the water in typeface at least equal to the size of  
13 the typeface of the corporate name, brand name, or trademark,  
14 if the source of the water is different from the source  
15 indicated in the corporate name, brand name, or trademark.

16 Section 19. Paragraph (b) of subsection (1) of section  
17 500.12, Florida Statutes, is amended, paragraphs (c) and (d)  
18 of said subsection are redesignated as paragraphs (e) and (f),  
19 respectively, and new paragraphs (c) and (d) are added to said  
20 subsection, to read:

21 500.12 Food permits; building permits.--

22 (1)

23 (b) An application for a food permit from the  
24 department must be accompanied by a fee in an amount  
25 determined by department rule, which may not exceed \$350,  
26 except that the fee accompanying an application for a food  
27 permit for operating a bottled water plant may not exceed  
28 \$1,000 and the fee accompanying an application for a food  
29 permit for operating a packaged ice plant may not exceed \$250.  
30 The fee for operating a bottled water plant or a packaged ice  
31 plant shall be set by rule of the department in an amount

1 sufficient to meet, but not exceed, the total direct and  
2 indirect costs incurred by the department in carrying out its  
3 permitting, inspection, sampling, enforcement, and  
4 administrative responsibilities for those operations. Food  
5 permits must be renewed annually on or before January 1. If an  
6 application for renewal of a food permit is not received by  
7 the department within 30 days after its due date, a late fee,  
8 in an amount not exceeding \$100, must be paid in addition to  
9 the food permit fee before the department may issue the food  
10 permit. The moneys collected shall be deposited in the General  
11 Inspection Trust Fund.

12 (c) For bottled water plants:

13 1. Water that is transported into the state and that  
14 is bottled before or after importation into the state must be  
15 bottled, labeled, handled, and otherwise processed and sold  
16 according to the provisions of this chapter.

17 2. An application for a food permit for operating a  
18 bottled water plant must state the location of the bottled  
19 water plant, the source of the water, and any other  
20 information considered necessary by the department to verify  
21 compliance with the safety, quality, and labeling requirements  
22 of this chapter.

23 (d) For packaged ice plants:

24 1. Packaged ice that is transported into the state and  
25 that is packaged before or after importation into the state  
26 must be packaged, labeled, handled, and otherwise processed  
27 and sold according to the provisions of this chapter.

28 2. An application for a food permit for operating a  
29 packaged ice plant must state the location of the packaged ice  
30 plant, the source of the water, the treatment the water  
31 received prior to being made into ice and packaged, and any

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

4 (4)(a) The department may suspend immediately upon  
5 notice any permit issued under this section if it finds that  
6 any of the conditions of the permit have been violated. The  
7 holder of a permit so suspended may at any time apply for the  
8 reinstatement of such permit; and the department shall,  
9 immediately after prompt hearing and an inspection of the  
10 establishment, reinstate such permit if the department finds  
11 that adequate measures have been taken to comply with and  
12 maintain the conditions of the permit, as originally issued,  
13 or as amended.

14 (b) The department shall have access to any food  
15 establishment for the purpose of ascertaining compliance with  
16 this section. Denial of access for such inspection is a ground  
17 for suspending the permit until access to the food  
18 establishment is freely given by the operator.

19 Section 20. Section 500.121, Florida Statutes, is  
20 amended to read:

21 500.121 Disciplinary procedures.--

22 (1) In addition to the suspension procedures provided  
23 in s. 500.12, the department may impose a fine not exceeding  
24 \$5,000 against any retail food store or food establishment  
25 that has violated this chapter, which fine, when imposed and  
26 paid, shall be deposited by the department into the General  
27 Inspection Trust Fund. The department may revoke or suspend  
28 the permit of any such retail food store or food establishment  
29 if it is satisfied that the retail food store or food  
30 establishment has:

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

1 (b) Violated or aided or abetted in the violation of  
2 any law of this state governing or applicable to retail food  
3 stores or food establishments or any lawful rules of the  
4 department.

5 (c) Knowingly committed, or been a party to, any  
6 material fraud, misrepresentation, conspiracy, collusion,  
7 trick, scheme, or device whereby any other person, lawfully  
8 relying upon the word, representation, or conduct of a retail  
9 food store or food establishment, acts to his injury or  
10 damage.

11 (d) Committed any act or conduct of the same or  
12 different character than that enumerated which constitutes  
13 fraudulent or dishonest dealing.

14 (2) Any manufacturer, processor, packer, or  
15 distributor who misrepresents or mislabels the country of  
16 origin of any food may, in addition to any penalty provided in  
17 this chapter, be subject to an additional administrative fine  
18 of up to \$10,000 per violation.

19 ~~(3)(2)~~ Any administrative order made and entered by  
20 the department imposing a fine pursuant to this section shall  
21 specify the amount of the fine and the time limit for payment  
22 thereof, not exceeding 15 days, and, upon failure of the  
23 permit holder to pay the fine within that time, the permit is  
24 subject to suspension.

25 ~~(4)(3)~~ In any court proceeding relating to  
26 administrative orders, the burden of proving violations of  
27 this chapter and of upholding administrative orders is with  
28 the department.

29 Section 21. Subsection (3) of section 500.147, Florida  
30 Statutes, is renumbered as subsection (5), and new subsections  
31 (3), (4), and (6) are added to said section to read:

1           500.147 Inspection of food establishments and  
2 vehicles; food safety pilot program.--

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 (6) The department is authorized to initiate a food  
9 safety pilot program establishing a special, documented food  
10 inspection program based on sound science principles of the  
11 Hazard Analysis Critical Control Point (HACCP) system and  
12 involving cooperative compliance efforts of both the  
13 department and the food establishment to assure consumers a  
14 safe, wholesome, and properly labeled food supply. A food  
15 establishment shall be eligible for such a pilot program only  
16 if program criteria are met. Criteria used to establish this  
17 special program include, but are not limited to, the  
18 following:

19 (a) A good inspection history over a specified time  
20 period.

21 (b) Certified food manager activities demonstrated to  
22 be effective in assessing food safety practices and correcting  
23 deficiencies at the food establishment.

24 (c) An active food training program in place for  
25 employees.

26 (d) "Self inspection" records of the food  
27 establishment made available for review by the department.

28 (e) Written sanitation standard operation procedures  
29 in place and the food establishment's verification records  
30 made available for review by the department.

31

1           (f) Freezer/refrigeration units and hot-cold  
2 temperature logs or recording charts made available for review  
3 by the department.

4           (g) Records of corrective action to resolve food  
5 safety deficiencies made available for review by the  
6 department.

7           Section 22. Section 500.171, Florida Statutes, is  
8 amended to read:

9           500.171 Injunction to restrain violation.--In addition  
10 to the remedies provided in this chapter and notwithstanding  
11 the existence of any adequate remedy at law, the department  
12 may bring an action to enjoin the violation or threatened  
13 violation of any provision of this chapter, or rule adopted  
14 under this chapter, in the circuit court of the county in  
15 which the violation occurred or is about to occur. Upon the  
16 department's presentation of competent and substantial  
17 evidence to the court of the violation or threatened  
18 violation, the court shall immediately issue the temporary or  
19 permanent injunction sought by the department. The injunction  
20 shall be issued without bond. A single act in violation of  
21 any provision of this chapter shall be sufficient to authorize  
22 the issuance of an injunction.~~In addition to the remedies~~  
23 ~~herein provided, the department may apply to a circuit court~~  
24 ~~for, and such court shall have jurisdiction upon hearing and~~  
25 ~~for cause shown to grant, a temporary or permanent injunction~~  
26 ~~restraining any person from violating any provision of s.~~  
27 ~~500.04, irrespective of whether or not there exists an~~  
28 ~~adequate remedy at law.~~

29           Section 23. Subsection (1) of section 500.177, Florida  
30 Statutes, is reenacted to read:

31

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 24. 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 25. 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 26. Section 526.3135, Florida Statutes, is  
2 amended to read:

3           526.3135 Reports by the Department of Agriculture and  
4 Consumer Services ~~Division of Consumer Services~~.--The  
5 Department of Agriculture and Consumer Services ~~Division of~~  
6 ~~Consumer Services~~ is directed to compile a report pursuant to  
7 s. 570.544 of all complaints received by the Department of  
8 Agriculture and Consumer Services pursuant to this act. Such  
9 report shall contain at least the information required by s.  
10 570.544(6)(b)2.-4. and shall be presented to the Speaker of  
11 the House of Representatives and the President of the Senate  
12 no later than January 1 of each year.

13           Section 27. Section 531.44, Florida Statutes, is  
14 amended to read:

15           531.44 Misrepresentation of pricing; verification  
16 procedures.--

17           (1) No person shall misrepresent the price of any  
18 commodity or service sold or offered, exposed, or advertised  
19 for sale by weight, measure, or count, nor represent the price  
20 in any manner calculated or tending to mislead or in any way  
21 deceive a person. Whenever an advertised, posted, or labeled  
22 price per unit of weight, measure, or count includes a  
23 fraction of a cent, all elements of a fraction shall be  
24 prominently displayed, and the numeral or numerals expressing  
25 the fraction shall be immediately adjacent to, of the same  
26 general design and style as, and at least one-half the height  
27 and width of, the numerals representing the whole cent.

28           (2) The department may adopt, by rule, sampling  
29 procedures for determining acceptable pricing practices.  
30 Sampling procedures for determining acceptable pricing  
31 practices may include, but are not limited to, those

1 procedures adopted by the National Conference on Weights and  
2 Measures.

3 Section 28. Section 531.50, Florida Statutes, is  
4 amended to read:

5 531.50 Administrative fine, Offenses and penalties,  
6 and offenses.--

7 (1) The department may enter an order imposing one or  
8 more of the following penalties against any person who  
9 violates any provision of this chapter or rule adopted under  
10 this chapter or impedes, obstructs, or hinders the department  
11 in the performance of its duties in connection with the  
12 provisions of this chapter:

13 (a) Issuance of a warning letter or notice.

14 (b) Imposition of an administrative fine of:

15 1. Up to \$1,000 for a first violation;

16 2. Up to \$2,500 for a second violation within 2 years  
17 after the first violation; or

18 3. Up to \$5,000 for a third violation within 2 years  
19 after the first violation.

20  
21 When imposing any fine under this section, the department  
22 shall consider the degree and extent of potential harm caused  
23 by the violation, the amount of money by which the violator  
24 benefited from noncompliance, whether the violation was  
25 committed willfully, and the compliance record of the  
26 violator. All fines, monetary penalties, and costs received by  
27 the department shall be deposited in the General Inspection  
28 Trust Fund for the purpose of administering the provisions of  
29 this chapter.

30 (2)(1) Any person who willfully and knowingly violates  
31 the provisions enumerated in subsection (2) or any provision

1 of this chapter or rule ~~rules~~ adopted by the department  
2 pursuant to this chapter commits ~~thereto for which a specific~~  
3 ~~penalty has not been prescribed shall be guilty of a~~  
4 misdemeanor of the second degree, punishable as provided in s.  
5 775.082 or s. 775.083. Upon a subsequent conviction, a person  
6 commits ~~he shall be guilty of~~ a misdemeanor of the first  
7 degree, punishable as provided in s. 775.082 or s. 775.083.

8 ~~(3)(2)~~ No person shall:

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

12 (b) Use or dispose of any rejected or condemned weight  
13 or measure without specific authorization from the rejecting  
14 authority.

15 (c) Remove any mark of rejection from a rejected  
16 weight or measure without specific authorization from the  
17 rejecting authority.

18 Section 29. Section 534.011, Florida Statutes, is  
19 amended to read:

20 534.011 Inspection and protection of livestock;  
21 jurisdiction of Department of Agriculture and Consumer  
22 Services.--The inspection and protection of livestock in the  
23 state are hereby placed under the jurisdiction of the  
24 Department of Agriculture and Consumer Services, herein called  
25 the "department." Fees collected pursuant to this chapter  
26 shall be deposited in the General Inspection Trust Fund.

27 Section 30. Subsection (1) of section 253.68, Florida  
28 Statutes, 1996 Supplement, is amended to read:

29 253.68 Authority to lease submerged land and water  
30 column.--

31

1           (1) To the extent that it is not contrary to the  
2 public interest, and subject to limitations contained in ss.  
3 253.67-253.75, the board of trustees may lease submerged lands  
4 to which it has title for the conduct of aquaculture  
5 activities and grant exclusive use of the bottom and the water  
6 column to the extent required by such activities. Such leases  
7 may authorize use of the submerged land and water column for  
8 either commercial or experimental purposes. However ~~no lease~~  
9 ~~shall be granted by the board when there is filed with it a~~  
10 resolution of objection adopted by a majority of the county  
11 commission of a county within whose boundaries the proposed  
12 leased area would lie, if the boundaries same were extended to  
13 the extent of the interest of the state, may ~~the proposed~~  
14 ~~lease area would lie~~. Said resolution shall be filed with the  
15 board of trustees within 30 days of the date of the first  
16 publication of notice as required by s. 253.70. Prior to the  
17 granting of any such leases, the board shall establish and  
18 publish a list of guidelines to be followed when considering  
19 applications for lease. Such guidelines shall be designed to  
20 protect the public's interest in submerged lands and the  
21 publicly owned water column.

22           Section 31. Section 500.453, Florida Statutes, as  
23 created by chapter 94-180, Laws of Florida, and sections  
24 500.455, 500.457, and 500.509, Florida Statutes, as amended by  
25 chapter 94-180, Laws of Florida, are hereby repealed.

26           Section 32. The Cracker Country facility located at  
27 the Florida State Fairgrounds is hereby designated as the  
28 "Doyle E. Carlton, Jr., Cracker Country." The Florida State  
29 Fair Authority is authorized to erect appropriate markers  
30 bearing the designation made by this section.

31

1           Section 33. This act shall take effect upon becoming a  
2 law.  
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