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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

31

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.

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