

1 A bill to be entitled
2 An act relating to agriculture and consumer
3 services; transferring the Division of
4 Licensing of the Department of State to the
5 Department of Agriculture and Consumer
6 Services; amending s. 20.10, F.S.; conforming
7 provisions; amending s. 20.14, F.S.; creating
8 the Division of Licensing in the Department of
9 Agriculture and Consumer Services; amending ss.
10 493.6101, 493.6104, 493.6108, 493.6109,
11 493.6112, 493.6121, 790.06, F.S.; redesignating
12 the department with regulatory
13 responsibilities; creating s. 288.1175, F.S.;
14 amending s. 316.515, F.S.; revising the types
15 of equipment authorized for transporting farm
16 products; allowing the Department of
17 Transportation to issue certain permits;
18 amending s. 370.31, F.S.; transferring the
19 Sturgeon Production Working Group from the
20 Department of Environmental Protection to the
21 Department of Agriculture and Consumer
22 Services; revising membership and procedures;
23 amending s. 388.261, F.S.; revising provisions
24 relating to state aid to counties and districts
25 for arthropod control; prorating county funds
26 under certain circumstances; providing an
27 exemption from funding requirements under
28 certain circumstances; authorizing the use of
29 state funds when requested by a county or
30 district; authorizing funds for technical
31 assistance or to purchase equipment, supplies,

1 or services; amending s. 388.281, F.S.;
2 revising uses for state matching funds;
3 amending s. 388.361, F.S.; authorizing the
4 Department of Agriculture and Consumer Services
5 to cooperate with local agencies; authorizing
6 collection, detection, suppression, and control
7 of mosquitoes and arthropods on public or
8 private land; amending s. 388.45, F.S.;
9 clarifying provisions relating to threats to
10 public health and the issuance of declarations;
11 authorizing declaration of a threat to animal
12 health when certain conditions exist;
13 authorizing treatment or control measures;
14 amending s. 403.067, F.S.; authorizing
15 implementation of interim measures for
16 specified water bodies for which total maximum
17 daily load or allocation has not been
18 established; amending s. 403.707, F.S.;
19 authorizing the processing or disposal of
20 certain invasive exotic plant species;
21 authorizing the Department of Environmental
22 Protection to adopt rules; amending s. 403.709,
23 F.S.; deleting the minimum county allocation to
24 local mosquito control agencies from waste tire
25 fees; amending s. 482.277, F.S.; revising
26 requirements relating to guarantees and
27 warranties in contracts for treatment of
28 wood-destroying organisms; declaring
29 legislative intent with respect to such
30 warranties and guarantees; amending s.
31 482.2401, F.S.; adding education in pest

1 control as an approved use of administrative
 2 fine revenues; creating s. 482.243, F.S.;
 3 creating the Pest Control Enforcement Advisory
 4 Council in the department; providing for
 5 membership, terms, and procedures; providing
 6 powers and duties; amending s. 487.041, F.S.;
 7 increasing the annual registration fee for a
 8 registered pesticide; amending s. 500.121,
 9 F.S.; providing sanctions for nutrient labeling
 10 violations; amending s. 500.148, F.S.;
 11 authorizing the department to issue a report
 12 certifying food establishment compliance with
 13 sanitation and permitting requirements for food
 14 exportation purposes; authorizing fees;
 15 amending s. 501.160, F.S.; providing for
 16 enforcement of prohibitions of unconscionable
 17 prices on rental or sale of essential
 18 commodities; amending s. 570.07, F.S.;
 19 authorizing the department to provide meals
 20 when personnel cannot leave emergency incident
 21 locations; amending s. 573.124, F.S.;
 22 increasing penalties for furnishing false
 23 information, or refusing to furnish
 24 information, relating to the marketing of
 25 agricultural commodities; amending s. 581.091,
 26 F.S.; requiring the Department of Agriculture
 27 and Consumer Services to periodically review
 28 the state lists of noxious weeds and invasive
 29 plants; requiring water management districts
 30 and local governments to use the lists when
 31 identifying noxious weeds, invasive plants, and

1 certain other plants pursuant to rule,
2 ordinance or regulation; amending s. 585.002,
3 F.S.; authorizing the department to set fees
4 for additional services relating to the animal
5 industry; amending s. 585.08, F.S.; authorizing
6 the Division of Animal Industry, under certain
7 circumstances, to condemn and destroy an animal
8 that is liable to spread contagious,
9 infectious, or communicable disease; amending
10 s. 585.09, F.S.; conforming a cross-reference;
11 repealing s. 585.10, F.S., relating to
12 limitations on payments to owners of condemned
13 and destroyed animals; amending s. 585.11,
14 F.S.; authorizing the department to cooperate
15 with United States Department of Agriculture
16 accredited private veterinarians; amending s.
17 585.21, F.S.; requiring written permission of
18 the department prior to sale in the state of
19 certain biological products; amending s.
20 585.61, F.S.; increasing fees for use of animal
21 disease diagnostic laboratories; amending s.
22 590.02, F.S.; revising the powers of the
23 Division of Forestry; providing that certain
24 managerial positions are classified under the
25 Selected Exempt Service; naming the Cross City
26 Work Center the L. Earl Peterson Forestry
27 Station; amending s. 590.11, F.S.; providing a
28 criminal penalty for violation of recreational
29 fire provisions; amending s. 590.125, F.S.;
30 revising requirements for certified prescribed
31 burning; renaming procedures for protecting

1 wild lands from wildfires; amending s. 597.020,
2 F.S.; requiring aquaculture licenses and
3 certifications to expire annually; amending s.
4 616.242, F.S.; providing that certain kiddie
5 rides shall be exempt from the requirement for
6 receipt of an inspection certificate each time
7 the ride is set up; revising accident-reporting
8 requirements; amending s. 496.404, F.S.;
9 redefining the term "educational institutions";
10 designating the U.S.D.A. Service Center
11 Building in Bartow as the John W. Hunt
12 Building; amending s. 316.640, F.S.;
13 eliminating certain limitations on the
14 authority of the Office of Agricultural Law
15 Enforcement; amending s. 570.073, F.S.;
16 specifying duties of the Office of Agricultural
17 Law Enforcement with respect to its
18 jurisdiction over violations of law which
19 threaten the security and safety of agriculture
20 and consumer services; authorizing the office
21 to enforce civil traffic offenses and laws
22 relating to the responsibilities of the
23 Commissioner of Agriculture; specifying that
24 officers within the department have the full
25 powers granted to other peace officers of this
26 state; authorizing the commission to appoint
27 part-time, reserve, or auxiliary law
28 enforcement officers; amending s. 163.05, F.S.;
29 amending s. 570.71, F.S.; revising provisions
30 relating to conservation easements and rural
31 land protection easements; amending s. 590.14,

1 F.S.; revising criteria for determining
2 administrative fines for violation of
3 provisions relating to forestry; creating s.
4 604.40, F.S.; providing regulations regarding
5 equipment used on a farm; amending s. 604.50,
6 F.S.; clarifying the definition of a
7 nonresidential farm building; providing an
8 appropriation and one position; providing an
9 appropriation; creating ch. 261, F.S.; creating
10 the T. Mark Schmidt Off-Highway Vehicle Safety
11 and Recreation Act; providing legislative
12 findings and intent; providing definitions;
13 creating the Off-Highway Vehicle Recreation
14 Advisory Committee effective July 1, 2003;
15 providing membership, duties, and
16 responsibilities of the committee; providing
17 functions, duties, and responsibilities of the
18 Department of Agriculture and Consumer
19 Services; requiring the department to review
20 certain public lands and make a report to the
21 Governor and the Legislature; providing
22 rulemaking authority; providing for the
23 publication and distribution of a guidebook;
24 providing for the repair, maintenance, and
25 rehabilitation of areas, trails, and lands;
26 providing for contracts and agreements;
27 providing criteria for recreation areas and
28 trails; providing a penalty; providing for the
29 use of designated off-highway vehicle funds
30 within the Incidental Trust Fund of the
31 Division of Forestry of the department;

1 amending s. 316.2074, F.S.; revising the
2 definition of the term "all-terrain vehicle";
3 prohibiting the use of all-terrain vehicles on
4 public roadways in the state; providing
5 exceptions; creating the Florida Off-Highway
6 Vehicle Titling Act; providing legislative
7 intent; providing definitions; providing for
8 administration by the Department of Highway
9 Safety and Motor Vehicles; providing for rules,
10 forms, and notices; requiring certificates of
11 title; providing for application for and
12 issuance of certificates of title; providing
13 for duplicate certificates of title; requiring
14 the furnishing of a manufacturer's statement of
15 origin; providing for fees; providing for
16 disposition of fees; providing authority to
17 refuse to issue and to cancel a certificate of
18 title; providing crimes relating to
19 certificates of title; providing penalties;
20 providing noncriminal infractions; providing
21 penalties; amending s. 375.313, F.S.; deleting
22 fee collection responsibility of the Fish and
23 Wildlife Conservation Commission for
24 registration of off-road vehicles; repealing s.
25 375.315, F.S., relating to the registration of
26 off-road vehicles by the commission; amending
27 s. 163.3177, F.S.; revising requirements for
28 future land use plans; amending s. 163.01,
29 F.S.; revising provisions with respect to the
30 Florida Interlocal Cooperation Act of 1969;
31 authorizing entities to finance certain

1 facilities under the act; providing effective
2 dates.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Effective January 3, 2003, pursuant to
7 section 20.06(2), Florida Statutes, the Division of Licensing
8 of the Department of State is transferred by a type two
9 transfer to the Department of Agriculture and Consumer
10 Services and reestablished as a division within that
11 department. Notwithstanding the provisions of section
12 20.06(2)(b), Florida Statutes, the Commissioner of Agriculture
13 is not authorized to reconfigure the division or its units or
14 subunits, or to modify its structure, duties, programs,
15 activities, or functions, or to reassign any funds from any
16 trust fund supporting those duties, programs, activities, or
17 functions.

18 Section 2. Effective January 3, 2003, subsection (2)
19 of section 20.10, Florida Statutes, is amended to read:

20 20.10 Department of State.--There is created a
21 Department of State.

22 (2) The following divisions of the Department of State
23 are established:

- 24 (a) Division of Elections.
25 (b) Division of Historical Resources.
26 (c) Division of Corporations.
27 (d) Division of Library and Information Services.

28 ~~(e) Division of Licensing.~~

29 ~~(e)(f)~~ Division of Cultural Affairs.

30 ~~(f)(g)~~ Division of Administration.

31

1 Section 3. Effective January 3, 2003, subsection (2)
2 of section 20.14, Florida Statutes, is amended to read:

3 20.14 Department of Agriculture and Consumer
4 Services.--There is created a Department of Agriculture and
5 Consumer Services.

6 (2) The following divisions of the Department of
7 Agriculture and Consumer Services are established:

8 (a) Administration.

9 (b) Agricultural Environmental Services.

10 (c) Animal Industry.

11 (d) Aquaculture.

12 (e) Consumer Services.

13 (f) Dairy Industry.

14 (g) Food Safety.

15 (h) Forestry.

16 (i) Fruit and Vegetables.

17 (j) Licensing.

18 (k)~~(j)~~ Marketing and Development.

19 (l)~~(k)~~ Plant Industry.

20 (m)~~(l)~~ Standards.

21 Section 4. Effective January 3, 2003, subsection (1)
22 of section 493.6101, Florida Statutes, is amended to read:

23 493.6101 Definitions.--

24 (1) "Department" means the Department of Agriculture
25 and Consumer Services State.

26 Section 5. Effective January 3, 2003, subsection (2)
27 of section 493.6104, Florida Statutes, is amended to read:

28 493.6104 Advisory council.--

29 (2) Council members shall be appointed by the
30 Commissioner of Agriculture ~~Secretary of State~~ for a 4-year
31 term. In the event of an appointment to fill an unexpired

1 term, the appointment shall be for no longer than the
2 remainder of the unexpired term. No member may serve more than
3 two full consecutive terms. Members may be removed by the
4 Commissioner of Agriculture ~~Secretary of State~~ for cause.
5 Cause shall include, but is not limited to, absences from two
6 consecutive meetings.

7 Section 6. Effective January 3, 2003, section
8 493.6108, Florida Statutes, is amended to read:

9 493.6108 Investigation of applicants by Department of
10 Agriculture and Consumer Services ~~State~~.--

11 (1) Except as otherwise provided, prior to the
12 issuance of a license under this chapter, the department shall
13 make an investigation of the applicant for a license. The
14 investigation shall include:

15 (a)1. An examination of fingerprint records and police
16 records. When a criminal history analysis of any applicant
17 under this chapter is performed by means of fingerprint card
18 identification, the time limitations prescribed by s.
19 120.60(1) shall be tolled during the time the applicant's
20 fingerprint card is under review by the Department of Law
21 Enforcement or the United States Department of Justice,
22 Federal Bureau of Investigation.

23 2. If a legible set of fingerprints, as determined by
24 the Department of Law Enforcement or the Federal Bureau of
25 Investigation, cannot be obtained after two attempts, the
26 Department of Agriculture and Consumer Services ~~State~~ may
27 determine the applicant's eligibility based upon a criminal
28 history record check under the applicant's name conducted by
29 the Department of Law Enforcement and the Federal Bureau of
30 Investigation. A set of fingerprints taken by a law
31 enforcement agency and a written statement signed by the

1 fingerprint technician or a licensed physician stating that
2 there is a physical condition that precludes obtaining a
3 legible set of fingerprints or that the fingerprints taken are
4 the best that can be obtained is sufficient to meet this
5 requirement.

6 (b) An inquiry to determine if the applicant has been
7 adjudicated incompetent under chapter 744 or has been
8 committed to a mental institution under chapter 394.

9 (c) Such other investigation of the individual as the
10 department may deem necessary.

11 (2) In addition to subsection (1), the department
12 shall make an investigation of the general physical fitness of
13 the Class "G" applicant to bear a weapon or firearm.

14 Determination of physical fitness shall be certified by a
15 physician currently licensed pursuant to chapter 458, chapter
16 459, or any similar law of another state or authorized to act
17 as a licensed physician by a federal agency or department.
18 Such certification shall be submitted on a form provided by
19 the department.

20 (3) The department shall also investigate the mental
21 history and current mental and emotional fitness of any Class
22 "G" applicant, and may deny a Class "G" license to anyone who
23 has a history of mental illness or drug or alcohol abuse.

24 Section 7. Effective January 3, 2003, subsection (2)
25 of section 493.6109, Florida Statutes, is amended to read:

26 493.6109 Reciprocity.--

27 (2) The rules authorized in subsection (1) may be
28 promulgated only if:

29 (a) The other state or territory has requirements
30 which are substantially similar to or greater than those
31 established in this chapter.

1 (b) The applicant has engaged in licensed activities
2 for at least 1 year in the other state or territory with no
3 disciplinary action against him or her.

4 (c) The Commissioner of Agriculture ~~Secretary of State~~
5 or other appropriate authority of the other state or territory
6 agrees to accept service of process for those licensees who
7 are operating in this state on a temporary basis.

8 Section 8. Effective January 3, 2003, section
9 493.6112, Florida Statutes, is amended to read:

10 493.6112 Notification to Department of Agriculture and
11 Consumer Services ~~State~~ of changes of partner or officer or
12 employees.--

13 (1) After filing the application, unless the
14 department declines to issue the license or revokes it after
15 issuance, an agency or school shall, within 5 working days of
16 the withdrawal, removal, replacement, or addition of any or
17 all partners or officers, notify and file with the department
18 complete applications for such individuals. The agency's or
19 school's good standing under this chapter shall be contingent
20 upon the department's approval of any new partner or officer.

21 (2) Each agency or school shall, upon the employment
22 or termination of employment of a licensee, report such
23 employment or termination immediately to the department and,
24 in the case of a termination, report the reason or reasons
25 therefor. The report shall be on a form prescribed by the
26 department.

27 Section 9. Effective January 3, 2003, subsection (7)
28 of section 493.6121, Florida Statutes, is amended to read:

29 493.6121 Enforcement; investigation.--

30 (7) The Department of Legal Affairs shall represent
31 the Department of Agriculture and Consumer Services ~~State~~ in

1 judicial proceedings seeking enforcement of this chapter, or
2 upon an action by any party seeking redress against the
3 department, and shall coordinate with the department in the
4 conduct of any investigations incident to its legal
5 responsibility.

6 Section 10. Effective January 3, 2003, section 790.06,
7 Florida Statutes, is amended to read:

8 790.06 License to carry concealed weapon or firearm.--

9 (1) The Department of Agriculture and Consumer
10 Services ~~State~~ is authorized to issue licenses to carry
11 concealed weapons or concealed firearms to persons qualified
12 as provided in this section. Each such license must bear a
13 color photograph of the licensee. For the purposes of this
14 section, concealed weapons or concealed firearms are defined
15 as a handgun, electronic weapon or device, tear gas gun,
16 knife, or billie, but the term does not include a machine gun
17 as defined in s. 790.001(9). Such licenses shall be valid
18 throughout the state for a period of 5 years from the date of
19 issuance. Any person in compliance with the terms of such
20 license may carry a concealed weapon or concealed firearm
21 notwithstanding the provisions of s. 790.01. The licensee must
22 carry the license, together with valid identification, at all
23 times in which the licensee is in actual possession of a
24 concealed weapon or firearm and must display both the license
25 and proper identification upon demand by a law enforcement
26 officer. Violations of the provisions of this subsection shall
27 constitute a noncriminal violation with a penalty of \$25,
28 payable to the clerk of the court.

29 (2) The Department of Agriculture and Consumer
30 Services ~~State~~ shall issue a license if the applicant:

31

1 (a) Is a resident of the United States or is a
2 consular security official of a foreign government that
3 maintains diplomatic relations and treaties of commerce,
4 friendship, and navigation with the United States and is
5 certified as such by the foreign government and by the
6 appropriate embassy in this country;

7 (b) Is 21 years of age or older;

8 (c) Does not suffer from a physical infirmity which
9 prevents the safe handling of a weapon or firearm;

10 (d) Is not ineligible to possess a firearm pursuant to
11 s. 790.23 by virtue of having been convicted of a felony;

12 (e) Has not been committed for the abuse of a
13 controlled substance or been found guilty of a crime under the
14 provisions of chapter 893 or similar laws of any other state
15 relating to controlled substances within a 3-year period
16 immediately preceding the date on which the application is
17 submitted;

18 (f) Does not chronically and habitually use alcoholic
19 beverages or other substances to the extent that his or her
20 normal faculties are impaired. It shall be presumed that an
21 applicant chronically and habitually uses alcoholic beverages
22 or other substances to the extent that his or her normal
23 faculties are impaired if the applicant has been committed
24 under chapter 397 or under the provisions of former chapter
25 396 or has been convicted under s. 790.151 or has been deemed
26 a habitual offender under s. 856.011(3), or has had two or
27 more convictions under s. 316.193 or similar laws of any other
28 state, within the 3-year period immediately preceding the date
29 on which the application is submitted;

30 (g) Desires a legal means to carry a concealed weapon
31 or firearm for lawful self-defense;

1 (h) Demonstrates competence with a firearm by any one
2 of the following:

3 1. Completion of any hunter education or hunter safety
4 course approved by the Fish and Wildlife Conservation
5 Commission or a similar agency of another state;

6 2. Completion of any National Rifle Association
7 firearms safety or training course;

8 3. Completion of any firearms safety or training
9 course or class available to the general public offered by a
10 law enforcement, junior college, college, or private or public
11 institution or organization or firearms training school,
12 utilizing instructors certified by the National Rifle
13 Association, Criminal Justice Standards and Training
14 Commission, or the Department of State;

15 4. Completion of any law enforcement firearms safety
16 or training course or class offered for security guards,
17 investigators, special deputies, or any division or
18 subdivision of law enforcement or security enforcement;

19 5. Presents evidence of equivalent experience with a
20 firearm through participation in organized shooting
21 competition or military service;

22 6. Is licensed or has been licensed to carry a firearm
23 in this state or a county or municipality of this state,
24 unless such license has been revoked for cause; or

25 7. Completion of any firearms training or safety
26 course or class conducted by a state-certified or National
27 Rifle Association certified firearms instructor;

28
29 A photocopy of a certificate of completion of any of the
30 courses or classes; or an affidavit from the instructor,
31 school, club, organization, or group that conducted or taught

1 said course or class attesting to the completion of the course
2 or class by the applicant; or a copy of any document which
3 shows completion of the course or class or evidences
4 participation in firearms competition shall constitute
5 evidence of qualification under this paragraph; any person who
6 conducts a course pursuant to subparagraph 2., subparagraph
7 3., or subparagraph 7., or who, as an instructor, attests to
8 the completion of such courses, must maintain records
9 certifying that he or she observed the student safely handle
10 and discharge the firearm;

11 (i) Has not been adjudicated an incapacitated person
12 under s. 744.331, or similar laws of any other state, unless 5
13 years have elapsed since the applicant's restoration to
14 capacity by court order;

15 (j) Has not been committed to a mental institution
16 under chapter 394, or similar laws of any other state, unless
17 the applicant produces a certificate from a licensed
18 psychiatrist that he or she has not suffered from disability
19 for at least 5 years prior to the date of submission of the
20 application;

21 (k) Has not had adjudication of guilt withheld or
22 imposition of sentence suspended on any felony or misdemeanor
23 crime of domestic violence unless 3 years have elapsed since
24 probation or any other conditions set by the court have been
25 fulfilled, or the record has been sealed or expunged;

26 (l) Has not been issued an injunction that is
27 currently in force and effect and that restrains the applicant
28 from committing acts of domestic violence or acts of repeat
29 violence; and

30 (m) Is not prohibited from purchasing or possessing a
31 firearm by any other provision of Florida or federal law.

1 (3) The Department of Agriculture and Consumer
2 Services State shall deny a license if the applicant has been
3 found guilty of, had adjudication of guilt withheld for, or
4 had imposition of sentence suspended for one or more crimes of
5 violence constituting a misdemeanor, unless 3 years have
6 elapsed since probation or any other conditions set by the
7 court have been fulfilled or the record has been sealed or
8 expunged. The Department of Agriculture and Consumer Services
9 State shall revoke a license if the licensee has been found
10 guilty of, had adjudication of guilt withheld for, or had
11 imposition of sentence suspended for one or more crimes of
12 violence within the preceding 3 years. The department shall,
13 upon notification by a law enforcement agency, a court, or the
14 Florida Department of Law Enforcement and subsequent written
15 verification, suspend a license or the processing of an
16 application for a license if the licensee or applicant is
17 arrested or formally charged with a crime that would
18 disqualify such person from having a license under this
19 section, until final disposition of the case. The department
20 shall suspend a license or the processing of an application
21 for a license if the licensee or applicant is issued an
22 injunction that restrains the licensee or applicant from
23 committing acts of domestic violence or acts of repeat
24 violence.

25 (4) The application shall be completed, under oath, on
26 a form promulgated by the Department of Agriculture and
27 Consumer Services State and shall include:

28 (a) The name, address, place and date of birth, race,
29 and occupation of the applicant;

30 (b) A statement that the applicant is in compliance
31 with criteria contained within subsections (2) and (3);

1 (c) A statement that the applicant has been furnished
2 a copy of this chapter and is knowledgeable of its provisions;

3 (d) A conspicuous warning that the application is
4 executed under oath and that a false answer to any question,
5 or the submission of any false document by the applicant,
6 subjects the applicant to criminal prosecution under s.
7 837.06; and

8 (e) A statement that the applicant desires a concealed
9 weapon or firearms license as a means of lawful self-defense.

10 (5) The applicant shall submit to the Department of
11 Agriculture and Consumer Services ~~State~~:

12 (a) A completed application as described in subsection
13 (4).

14 (b) A nonrefundable license fee not to exceed \$85, if
15 he or she has not previously been issued a statewide license,
16 or a nonrefundable license fee not to exceed \$70 for renewal
17 of a statewide license. Costs for processing the set of
18 fingerprints as required in paragraph (c) shall be borne by
19 the applicant. However, an individual holding an active
20 certification from the Criminal Justice Standards and Training
21 Commission as a "law enforcement officer," "correctional
22 officer," or "correctional probation officer" as defined in s.
23 943.10(1), (2), (3), (6), (7), (8), or (9) is exempt from the
24 licensing requirements of this section. If any individual
25 holding an active certification from the Criminal Justice
26 Standards and Training Commission as a "law enforcement
27 officer," a "correctional officer," or a "correctional
28 probation officer" as defined in s. 943.10(1), (2), (3), (6),
29 (7), (8), or (9) wishes to receive a concealed weapons or
30 firearms license, such person is exempt from the background
31 investigation and all background investigation fees, but shall

1 pay the current license fees regularly required to be paid by
2 nonexempt applicants. Further, a law enforcement officer, a
3 correctional officer, or a correctional probation officer as
4 defined in s. 943.10(1), (2), or (3) is exempt from the
5 required fees and background investigation for a period of 1
6 year subsequent to the date of retirement of said officer as a
7 law enforcement officer, a correctional officer, or a
8 correctional probation officer.

9 (c) A full set of fingerprints of the applicant
10 administered by a law enforcement agency.

11 (d) A photocopy of a certificate or an affidavit or
12 document as described in paragraph (2)(h).

13 (e) A full frontal view color photograph of the
14 applicant taken within the preceding 30 days, in which the
15 head, including hair, measures $7/8$ of an inch wide and $1\ 1/8$
16 inches high.

17 (6)(a) The Department of Agriculture and Consumer
18 Services State, upon receipt of the items listed in subsection
19 (5), shall forward the full set of fingerprints of the
20 applicant to the Department of Law Enforcement for state and
21 federal processing, provided the federal service is available,
22 to be processed for any criminal justice information as
23 defined in s. 943.045. The cost of processing such
24 fingerprints shall be payable to the Department of Law
25 Enforcement by the Department of Agriculture and Consumer
26 Services State.

27 (b) The sheriff's office shall provide fingerprinting
28 service if requested by the applicant and may charge a fee not
29 to exceed \$5 for this service.

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31

1 (c) The Department of Agriculture and Consumer
2 Services State shall, within 90 days after the date of receipt
3 of the items listed in subsection (5):

4 1. Issue the license; or

5 2. Deny the application based solely on the ground
6 that the applicant fails to qualify under the criteria listed
7 in subsection (2) or subsection (3). If the Department of
8 Agriculture and Consumer Services State denies the
9 application, it shall notify the applicant in writing, stating
10 the ground for denial and informing the applicant of any right
11 to a hearing pursuant to chapter 120.

12 3. In the event the department receives criminal
13 history information with no final disposition on a crime which
14 may disqualify the applicant, the time limitation prescribed
15 by this paragraph may be suspended until receipt of the final
16 disposition or proof of restoration of civil and firearm
17 rights.

18 (d) In the event a legible set of fingerprints, as
19 determined by the Department of Agriculture and Consumer
20 Services State or the Federal Bureau of Investigation, cannot
21 be obtained after two attempts, the Department of Agriculture
22 and Consumer Services State shall determine eligibility based
23 upon the name checks conducted by the Florida Department of
24 Law Enforcement.

25 (e) A consular security official of a foreign
26 government that maintains diplomatic relations and treaties of
27 commerce, friendship, and navigation with the United States
28 and is certified as such by the foreign government and by the
29 appropriate embassy in this country must be issued a license
30 within 20 days after the date of the receipt of a completed
31 application, certification document, color photograph as

1 specified in paragraph (5)(e), and a nonrefundable license fee
2 of \$300. Consular security official licenses shall be valid
3 for 1 year and may be renewed upon completion of the
4 application process as provided in this section.

5 (7) The Department of Agriculture and Consumer
6 Services ~~State~~ shall maintain an automated listing of
7 licenseholders and pertinent information, and such information
8 shall be available on-line, upon request, at all times to all
9 law enforcement agencies through the Florida Crime Information
10 Center.

11 (8) Within 30 days after the changing of a permanent
12 address, or within 30 days after having a license lost or
13 destroyed, the licensee shall notify the Department of
14 Agriculture and Consumer Services ~~State~~ of such change.
15 Failure to notify the Department of Agriculture and Consumer
16 Services ~~State~~ pursuant to the provisions of this subsection
17 shall constitute a noncriminal violation with a penalty of
18 \$25.

19 (9) In the event that a concealed weapon or firearm
20 license is lost or destroyed, the license shall be
21 automatically invalid, and the person to whom the same was
22 issued may, upon payment of \$15 to the Department of
23 Agriculture and Consumer Services ~~State~~, obtain a duplicate,
24 or substitute thereof, upon furnishing a notarized statement
25 to the Department of Agriculture and Consumer Services ~~State~~
26 that such license has been lost or destroyed.

27 (10) A license issued under this section shall be
28 suspended or revoked pursuant to chapter 120 if the licensee:

29 (a) Is found to be ineligible under the criteria set
30 forth in subsection (2);

31

1 (b) Develops or sustains a physical infirmity which
2 prevents the safe handling of a weapon or firearm;

3 (c) Is convicted of a felony which would make the
4 licensee ineligible to possess a firearm pursuant to s.
5 790.23;

6 (d) Is found guilty of a crime under the provisions of
7 chapter 893, or similar laws of any other state, relating to
8 controlled substances;

9 (e) Is committed as a substance abuser under chapter
10 397, or is deemed a habitual offender under s. 856.011(3), or
11 similar laws of any other state;

12 (f) Is convicted of a second violation of s. 316.193,
13 or a similar law of another state, within 3 years of a
14 previous conviction of such section, or similar law of another
15 state, even though the first violation may have occurred prior
16 to the date on which the application was submitted;

17 (g) Is adjudicated an incapacitated person under s.
18 744.331, or similar laws of any other state; or

19 (h) Is committed to a mental institution under chapter
20 394, or similar laws of any other state.

21 (11) No less than 90 days prior to the expiration date
22 of the license, the Department of Agriculture and Consumer
23 Services State shall mail to each licensee a written notice of
24 the expiration and a renewal form prescribed by the Department
25 of Agriculture and Consumer Services State. The licensee must
26 renew his or her license on or before the expiration date by
27 filing with the Department of Agriculture and Consumer
28 Services State the renewal form containing a notarized
29 affidavit stating that the licensee remains qualified pursuant
30 to the criteria specified in subsections (2) and (3), a color
31 photograph as specified in paragraph (5)(e), and the required

1 renewal fee. Out-of-state residents must also submit a
2 completed fingerprint card and fingerprint processing fee.
3 The license shall be renewed upon receipt of the completed
4 renewal form, color photograph, appropriate payment of fees,
5 and, if applicable, a completed fingerprint card.
6 Additionally, a licensee who fails to file a renewal
7 application on or before its expiration date must renew his or
8 her license by paying a late fee of \$15. No license shall be
9 renewed 6 months or more after its expiration date, and such
10 license shall be deemed to be permanently expired. A person
11 whose license has been permanently expired may reapply for
12 licensure; however, an application for licensure and fees
13 pursuant to subsection (5) must be submitted, and a background
14 investigation shall be conducted pursuant to the provisions of
15 this section. Persons who knowingly file false information
16 pursuant to this subsection shall be subject to criminal
17 prosecution under s. 837.06.

18 (12) No license issued pursuant to this section shall
19 authorize any person to carry a concealed weapon or firearm
20 into any place of nuisance as defined in s. 823.05; any
21 police, sheriff, or highway patrol station; any detention
22 facility, prison, or jail; any courthouse; any courtroom,
23 except that nothing in this section would preclude a judge
24 from carrying a concealed weapon or determining who will carry
25 a concealed weapon in his or her courtroom; any polling place;
26 any meeting of the governing body of a county, public school
27 district, municipality, or special district; any meeting of
28 the Legislature or a committee thereof; any school, college,
29 or professional athletic event not related to firearms; any
30 school administration building; any portion of an
31 establishment licensed to dispense alcoholic beverages for

1 consumption on the premises, which portion of the
2 establishment is primarily devoted to such purpose; any
3 elementary or secondary school facility; any area technical
4 center; any college or university facility unless the licensee
5 is a registered student, employee, or faculty member of such
6 college or university and the weapon is a stun gun or
7 nonlethal electric weapon or device designed solely for
8 defensive purposes and the weapon does not fire a dart or
9 projectile; inside the passenger terminal and sterile area of
10 any airport, provided that no person shall be prohibited from
11 carrying any legal firearm into the terminal, which firearm is
12 encased for shipment for purposes of checking such firearm as
13 baggage to be lawfully transported on any aircraft; or any
14 place where the carrying of firearms is prohibited by federal
15 law. Any person who willfully violates any provision of this
16 subsection commits a misdemeanor of the second degree,
17 punishable as provided in s. 775.082 or s. 775.083.

18 (13) All moneys collected by the department pursuant
19 to this section shall be deposited in the Division of
20 Licensing Trust Fund, and the Legislature shall appropriate
21 from the fund those amounts deemed necessary to administer the
22 provisions of this section. All revenues collected, less
23 those costs determined by the Department of Agriculture and
24 Consumer Services ~~State~~ to be nonrecurring or one-time costs,
25 shall be deferred over the 3-year licensure period.
26 Notwithstanding the provisions of s. 493.6117, all moneys
27 collected pursuant to this section shall not revert to the
28 General Revenue Fund; however, this shall not abrogate the
29 requirement for payment of the service charge imposed pursuant
30 to chapter 215.

31

1 (14) All funds received by the sheriff pursuant to the
2 provisions of this section shall be deposited into the general
3 revenue fund of the county and shall be budgeted to the
4 sheriff.

5 (15) The Legislature finds as a matter of public
6 policy and fact that it is necessary to provide statewide
7 uniform standards for issuing licenses to carry concealed
8 weapons and firearms for self-defense and finds it necessary
9 to occupy the field of regulation of the bearing of concealed
10 weapons or firearms for self-defense to ensure that no honest,
11 law-abiding person who qualifies under the provisions of this
12 section is subjectively or arbitrarily denied his or her
13 rights. The Department of Agriculture and Consumer Services
14 ~~State~~ shall implement and administer the provisions of this
15 section. The Legislature does not delegate to the Department
16 of Agriculture and Consumer Services ~~State~~ the authority to
17 regulate or restrict the issuing of licenses provided for in
18 this section, beyond those provisions contained in this
19 section. Subjective or arbitrary actions or rules which
20 encumber the issuing process by placing burdens on the
21 applicant beyond those sworn statements and specified
22 documents detailed in this section or which create
23 restrictions beyond those specified in this section are in
24 conflict with the intent of this section and are prohibited.
25 This section shall be liberally construed to carry out the
26 constitutional right to bear arms for self-defense. This
27 section is supplemental and additional to existing rights to
28 bear arms, and nothing in this section shall impair or
29 diminish such rights.

30
31

1 (16) The Department of Agriculture and Consumer
2 Services State shall maintain statistical information on the
3 number of licenses issued, revoked, suspended, and denied.

4 (17) As amended by chapter 87-24, Laws of Florida,
5 this section shall be known and may be cited as the "Jack
6 Hagler Self Defense Act."

7 Section 11. Subsection (5) of section 316.515, Florida
8 Statutes, is amended to read:

9 316.515 Maximum width, height, length.--

10 (5) IMPLEMENTS OF HUSBANDRY, AGRICULTURAL TRAILERS,
11 SAFETY REQUIREMENTS.--Notwithstanding any other provisions of
12 law, straight trucks and cotton module movers, not exceeding
13 50 feet in length, or any combination of up to and including
14 three implements of husbandry including the towing power unit,
15 and any single agricultural trailer, with a load thereon not
16 exceeding 130 inches in width, is authorized for the purpose
17 of transporting peanuts, grains, soybeans, cotton, hay, straw,
18 or other perishable farm products from their point of
19 production to the first point of change of custody or of
20 long-term storage, and for the purpose of returning to such
21 point of production, by a person engaged in the production of
22 any such product or custom hauler, if such vehicle or
23 combination of vehicles otherwise complies with this section.
24 Such vehicles shall be operated in accordance with all safety
25 requirements prescribed by law and Department of
26 Transportation rules. The Department of Transportation may
27 issue overlength permits for cotton module movers greater than
28 50 feet but not more than 55 feet in overall length.

29 Section 12. Subsections (2) and (3) of section 370.31,
30 Florida Statutes, are amended to read:

31 370.31 Commercial production of sturgeon.--

1 (2) CREATION.--The Sturgeon Production Working Group
2 is created within the Department of Agriculture and Consumer
3 Services Environmental Protection and shall be composed of
4 seven ~~six~~ members as follows:

5 (a) The head of the sturgeon research program or
6 designee from the University of Florida, Institute of Food and
7 Agricultural Sciences. Such member shall be appointed by the
8 University of Florida's Vice President for Agricultural
9 Affairs.

10 (b) One representative from the Department of
11 Environmental Protection to be appointed by the Secretary of
12 Environmental Protection.

13 (c) One representative from the Fish and Wildlife
14 Conservation Commission to be appointed by the executive
15 director of the Fish and Wildlife Conservation Commission.

16 (d) One representative from the Department of
17 Agriculture and Consumer Services to be appointed by the
18 Commissioner of Agriculture.

19 (e) Two representatives from the aquaculture industry
20 to be appointed by the Aquaculture Review Council.

21 (f) One representative from a private nonprofit
22 organization involved in sturgeon production work, to be
23 appointed by the Commissioner of Agriculture.

24 (3) MEETINGS; PROCEDURES; RECORDS.--The working group
25 shall meet at least twice a year and elect, by a quorum, a
26 chair ~~and, vice chair, and secretary.~~

27 (a) The chair of the working group shall preside at
28 all meetings and shall call a meeting as often as necessary to
29 carry out the provisions of this section. ~~To call a meeting,~~
30 ~~the chair shall solicit an agreement to meet from at least two~~
31

1 ~~other working group members and then notify any remaining~~
2 ~~members of the meeting.~~

3 (b) The Department of Agriculture and Consumer
4 Services secretary shall keep a complete record of the
5 proceedings of each meeting, which includes the names of the
6 members present at each meeting and the actions taken. ~~Such~~
7 ~~records shall be kept on file with the Department of~~
8 ~~Environmental Protection with copies filed with the Department~~
9 ~~of Fisheries and Aquatic Sciences at the University of~~
10 ~~Florida.~~ The records shall be public records pursuant to
11 chapter 119.

12 (c) A quorum shall consist of a majority of the group
13 members. Members of the group shall not receive compensation,
14 but shall be entitled to per diem and travel expenses,
15 including attendance at meetings, as allowed public officers
16 and employees pursuant to s. 112.061 ~~one representative from~~
17 ~~the Department of Environmental Protection, one representative~~
18 ~~from the Institute of Food and Agricultural Sciences, and at~~
19 ~~least two other members.~~

20 Section 13. Section 388.261, Florida Statutes, is
21 amended to read:

22 388.261 State aid to counties and districts for
23 arthropod control; distribution priorities and limitations.--

24 (1) ~~Every county or district budgeting local funds,~~
25 ~~derived either by special tax levy or funds appropriated or~~
26 ~~otherwise made available for the control of mosquitoes and~~
27 ~~other arthropods under a plan submitted by the county or~~
28 ~~district and upon approval by the department, shall be~~
29 ~~eligible to receive state funds, supplies, services, and~~
30 ~~equipment on a dollar-for-dollar matching basis up to but not~~
31 ~~exceeding \$30,000 for any one county for any one year. A~~

1 county or district may, without contributing matching funds,
2 receive state funds, supplies, services, or equipment in an
3 amount of no more than ~~\$50,000~~\$30,000 per year for up to 3
4 years for any new ~~or expanded~~ program for the control of
5 mosquitoes and other arthropods which serves an area not
6 previously served by the county or district. These funds may
7 be expended for any and all types of control measures approved
8 by the department.

9 (2) ~~In addition,~~ Every county or district budgeting
10 local funds to be used exclusively for the control of
11 mosquitoes and other arthropods, under a plan submitted by the
12 county or district and approved by the department, shall be
13 eligible to receive state funds and supplies, services, and
14 equipment on a dollar-for-dollar matching basis to ~~for control~~
15 ~~measures up to but not exceeding 50 percent of the amount of~~
16 local funds budgeted ~~for such control~~. Should state funds
17 appropriated by the Legislature be insufficient to grant each
18 county or district state funds on a dollar-for-dollar matching
19 basis to 50 percent ~~of the amount budgeted in local funds,~~ the
20 department shall prorate said state funds based on the amount
21 of matchable local funds budgeted for expenditure by each
22 county or district.

23 (3) Every county shall be limited to receive a total
24 of ~~\$120,000~~\$100,000 of state funds, exclusive of state funds
25 brought forward, during any one year, ~~however, a county or~~
26 ~~district that receives funds under subsection (1) for service~~
27 ~~to an area not previously served may receive up to \$130,000~~
28 ~~during any one year.~~

29 (4) Up to 20 percent of the annual funds appropriated
30 to local governments for arthropod control may be used for
31

1 arthropod control research or demonstration projects as
2 approved by the department.

3 (5) If more than one local mosquito control agency
4 exists in a county, the funds shall be prorated between the
5 agencies based on the population served by each agency.

6 (6) The Commissioner of Agriculture may exempt
7 counties or districts from the requirements in subsection (1),
8 subsection (2), or subsection (3) when the department
9 determines state funds, supplies, services, or equipment are
10 necessary for the immediate control of mosquitoes and other
11 arthropods that pose a threat to human or animal health.

12 (7) The department may use state funds appropriated
13 for a county or district under subsection (1) or subsection
14 (2) to provide state mosquito or other arthropod control
15 equipment, supplies, or services when requested by a county or
16 district eligible to receive state funds under s. 388.271.

17 (8) The department is authorized to use up to 5
18 percent of the funds appropriated annually by the Legislature
19 under this section to provide technical assistance to the
20 counties or districts, or to purchase equipment, supplies, or
21 services necessary to administer the provisions of this
22 chapter.

23 Section 14. Subsection (2) of section 388.281, Florida
24 Statutes, is amended to read:

25 388.281 Use of state matching funds.--

26 (2) All funds, supplies, and services released on the
27 dollar-for-dollar ~~50-percent~~ matching basis shall be used
28 exclusively for an integrated program that provides a
29 combination of mosquito control, source reduction measures,
30 public education, personnel training and certification,
31 arthropod population surveillance, ~~research and demonstration~~

1 ~~projects~~, larvicides, adulticides, equipment, and public
2 ~~epidemic~~ alerts as approved by the department. Source
3 reduction measures may include measures to improve management
4 and enhance the ecological integrity of source reduction
5 areas. If source reduction measures require permits,
6 approvals, or agreement by federal, state, regional, or local
7 agencies, such permits, approvals, or agreement shall be
8 obtained prior to commencement of the source reduction
9 project. These measures include sanitary landfills, drainage,
10 diking, filling of arthropod breeding areas, and the purchase,
11 maintenance, and operation of all types of equipment including
12 trucks, dredges, draglines, bulldozers, or any other type of
13 machinery and materials utilized in ditching, ditch lining,
14 ditch construction, diking, filling, hiring personnel, rental
15 of equipment, and payment for contract work awarded to the
16 lowest responsible bidder.

17 Section 15. Subsection (6) of section 388.361, Florida
18 Statutes, is amended, and subsection (7) is added to that
19 section, to read:

20 388.361 Department authority and rules;
21 administration.--

22 (6) The department shall have the authority to
23 cooperate with federal, ~~and~~ state, and local agencies and to
24 enter into such cooperative agreements or commitments as the
25 department may determine necessary to carry out and enforce
26 the provisions of this chapter.

27 (7) The department shall have the authority to
28 collect, detect, suppress, and control mosquitoes and other
29 arthropods that are determined by the State Health Officer to
30 pose a threat to public health, or determined by the
31 Commissioner of Agriculture to pose a threat to animal health,

1 wherever they may occur on public or private land in this
2 state, and to do all things necessary in the exercise of such
3 authority. Prior to the start of treatments for the control of
4 mosquitoes or other arthropods, the department shall consult
5 with the mosquito control districts in the proposed treatment
6 areas, the Department of Health, the Department of
7 Environmental Protection, and the Fish and Wildlife
8 Conservation Commission regarding the proposed locations,
9 dates, and methods to be used.

10 Section 16. Section 388.45, Florida Statutes, is
11 amended to read:

12 388.45 Threat to public or animal health; ~~emergency~~
13 declarations.--

14 (1) The State Health Officer has the authority to
15 declare that a threat to public health exists when the
16 Department of Health discovers in the human or surrogate
17 population the occurrence of an infectious disease that can be
18 transmitted from mosquitoes or other arthropods to humans. The
19 State Health Officer must immediately notify the Commissioner
20 of Agriculture of the declaration of this threat to public
21 health. The Commissioner of Agriculture is authorized to issue
22 a mosquito or other arthropod ~~an emergency~~ declaration in
23 those counties needing additional mosquito or other arthropod
24 control measures based on the State Health Officer's
25 declaration of a threat to the public health ~~or based on other~~
26 ~~threats to animal health~~. Each declaration must contain the
27 geographical boundaries and the duration of the declaration.
28 The State Health Officer shall order such human medical
29 preventive treatment and the Commissioner of Agriculture shall
30 order such ameliorative mosquito or other arthropod control
31 measures as are necessary to prevent the spread of disease,

1 notwithstanding contrary provisions of this chapter or the
2 rules adopted under this chapter. Within 24 hours after a
3 declaration of a threat to the public health, the State Health
4 Officer must also notify the agency heads of the Department of
5 Environmental Protection and the Fish and Wildlife
6 Conservation Commission of the declaration. Within 24 hours
7 after a mosquito or other arthropod ~~an emergency~~ declaration
8 based on the public health declaration ~~or based on other~~
9 ~~threats to animal health~~, the Commissioner of Agriculture must
10 notify the agency heads of the Department of Environmental
11 Protection and the Fish and Wildlife Conservation Commission
12 of the declaration. ~~Within 24 hours after an emergency~~
13 ~~declaration based on other threats to animal health~~, the
14 Commissioner of Agriculture must also notify the agency head
15 of the Department of Health of the declaration.

16 (2) The Commissioner of Agriculture has the authority
17 to declare that a threat to animal health exists when the
18 department discovers the occurrence of an infectious disease
19 in animals that can be transmitted by mosquitoes or other
20 arthropods and is authorized to issue an animal health
21 declaration in those counties needing additional veterinary
22 care or mosquito or other arthropod control measures based on
23 a threat to animal health. Each declaration must contain the
24 geographical boundaries and the duration of the declaration.
25 The Commissioner of Agriculture shall order such veterinary
26 treatment or ameliorative mosquito or other arthropod control
27 measures as are necessary to prevent the spread of disease,
28 notwithstanding contrary provisions of this chapter or the
29 rules adopted under this chapter. The Commissioner of
30 Agriculture shall immediately notify the State Health Officer
31 and the agency heads of the Department of Environmental

1 Protection and the Fish and Wildlife Conservation Commission
2 upon issuance of an animal health declaration.

3 Section 17. Subsection (11) of section 403.067,
4 Florida Statutes, is amended to read:

5 403.067 Establishment and implementation of total
6 maximum daily loads.--

7 (11) IMPLEMENTATION OF ADDITIONAL PROGRAMS.--

8 (a) The department shall not implement, without prior
9 legislative approval, any additional regulatory authority
10 pursuant to s. 303(d) of the Clean Water Act or 40 C.F.R. part
11 130, if such implementation would result in water quality
12 discharge regulation of activities not currently subject to
13 regulation.

14 (b) Interim measures, best-management practices, or
15 other measures may be developed and voluntarily implemented
16 pursuant to paragraph (7)(c) or paragraph (7)(d) for any water
17 body or segment for which a total maximum daily load or
18 allocation has not been established. The implementation of
19 such pollution-control programs may be considered by the
20 department in the determination made pursuant to subsection
21 (4).

22 Section 18. Paragraph (k) is added to subsection (12)
23 of section 403.707, Florida Statutes, to read:

24 403.707 Permits.--

25 (12) The department shall establish a separate
26 category for solid waste management facilities which accept
27 only construction and demolition debris for disposal or
28 recycling. The department shall establish a reasonable
29 schedule for existing facilities to comply with this section
30 to avoid undue hardship to such facilities. However, a
31 permitted solid waste disposal unit which receives a

1 significant amount of waste prior to the compliance deadline
2 established in this schedule shall not be required to be
3 retrofitted with liners or leachate control systems.

4 Facilities accepting materials defined in s. 403.703(17)(b)
5 must implement a groundwater monitoring system adequate to
6 detect contaminants that may reasonably be expected to result
7 from such disposal prior to the acceptance of those materials.

8 (k) Brazilian pepper and other invasive exotic plant
9 species as designated by the department resulting from
10 eradication projects may be processed at permitted
11 construction and demolition debris recycling facilities or
12 disposed of at permitted construction and demolition debris
13 disposal facilities or Class III facilities. The department
14 may adopt rules to implement this paragraph.

15 Section 19. Paragraph (e) of subsection (3) of section
16 403.709, Florida Statutes, is amended to read:

17 403.709 Solid Waste Management Trust Fund; use of
18 waste tire fee moneys; waste tire site management.--

19 (3) Moneys allocated to the fund from waste tire fees
20 shall be used:

21 (e) At least 10 percent of the revenues deposited in
22 the fund annually from waste tire fees shall be allocated as
23 additional grants to local mosquito control agencies in
24 accordance with s. 388.261 for the specific purpose of abating
25 and providing mosquito control relating to waste tire sites,
26 other tire piles, and other sites identified by local mosquito
27 control agencies as mosquito breeding areas. Only local
28 mosquito control agencies approved by the Department of
29 Agriculture and Consumer Services may receive funds pursuant
30 to this paragraph. ~~Each county with an eligible local~~
31 ~~mosquito control agency shall be allocated a minimum of~~

1 ~~\$15,000 pursuant to this paragraph. Any remaining funds under~~
2 ~~this paragraph shall be distributed to eligible local mosquito~~
3 ~~control agencies on the basis of county population. If more~~
4 ~~than one local mosquito control agency exists in a county, the~~
5 ~~funds shall be prorated between the agencies based on the~~
6 ~~population served by each agency.~~

7 Section 20. Section 482.227, Florida Statutes, is
8 amended to read:

9 482.227 Guarantees and warranties.--

10 (1) The Legislature finds that the terms "guarantee"
11 and "warranty" are common in contracts for the treatment of
12 wood-destroying organisms and intends to clarify that the
13 purpose of this section is to assure that the consumer
14 understands whether a contract contains a "guarantee" or
15 "warranty" for repair and retreatment or for retreatment only
16 or contains no guarantee. Unless the contract for treatment of
17 wood-destroying organisms indicates conspicuously on the front
18 page whether the guarantee or warranty is for repair and
19 retreatment or for retreatment only or that no guaranty or
20 warranty is offered, the term "guarantee" or "warranty" may be
21 used in a contract for treatment of wood-destroying organisms
22 only in the following circumstances:

23 (a) If the licensee promises to repair ~~restore~~ any
24 property damaged by wood-destroying organisms during a
25 specified period after the treatment, the term "full" or
26 "unlimited" must be used together with the term "guarantee" or
27 "warranty" wherever that term occurs other than in a
28 disclaimer under subsection (2).

29 (b) If the licensee promises only to provide
30 additional treatment if infestation occurs during a specified
31 period after treatment, the term "limited" must be used with

1 the term "guarantee" or "warranty" wherever that term occurs
2 other than in a disclaimer under subsection (2).

3 (c) If the licensee does not promise to repair ~~restore~~
4 the property or provide additional treatment, the term
5 "guarantee" or "warranty" may not be used except in a
6 disclaimer under subsection (2).

7 (2) A disclaimer indicating that no guarantee or
8 warranty is offered under the contract ~~Any statement~~
9 ~~disclaiming an expressed or implied guarantee or warranty~~ must
10 appear in conspicuous type on the face of the contract.

11 Section 21. Effective October 1, 2003, section
12 482.227, Florida Statutes, as amended by this act, is amended
13 to read:

14 482.227 Guarantees and warranties; contracts executed
15 after October 1, 2003.--

16 (1) The Legislature finds that the terms "guarantee"
17 and "warranty" are common in contracts for the treatment of
18 wood-destroying organisms. ~~and intends to clarify that~~ The
19 purpose of this section is to assure that contract language
20 describing the consumer understands whether a contract
21 contains a "guarantee" or "warranty" is clear and easily
22 identifiable for the protection of consumers and licensees for
23 repair and retreatment or for retreatment only or contains no
24 guarantee. Therefore the following provisions shall apply to
25 each new contract for the treatment of wood-destroying
26 organisms issued by the licensee and signed by the customer
27 after October 1, 2003. ~~Unless the contract for treatment of~~
28 ~~wood-destroying organisms indicates conspicuously on the front~~
29 ~~page whether the guarantee or warranty is for repair and~~
30 ~~re-treatment or for re-treatment only or that no guaranty or~~
31 ~~warranty is offered, the term "guarantee" or "warranty" may be~~

1 ~~used in a contract for treatment of wood-destroying organisms~~
2 ~~only in the following circumstances:~~

3 ~~(a) If the licensee promises to repair any property~~
4 ~~damaged by wood-destroying organisms during a specified period~~
5 ~~after the treatment, the term "full" or "unlimited" must be~~
6 ~~used together with the term "guarantee" or "warranty" wherever~~
7 ~~that term occurs other than in a disclaimer under subsection~~
8 ~~(2).~~

9 ~~(b) If the licensee promises only to provide~~
10 ~~additional treatment if infestation occurs during a specified~~
11 ~~period after treatment, the term "limited" must be used with~~
12 ~~the term "guarantee" or "warranty" wherever that term occurs~~
13 ~~other than in a disclaimer under subsection (2).~~

14 ~~(c) If the licensee does not promise to repair the~~
15 ~~property or provide additional treatment, the term "guarantee"~~
16 ~~or "warranty" may not be used except in a disclaimer under~~
17 ~~subsection (2).~~

18 (2) Any contract for treatment of wood-destroying
19 organisms must specify on the first page in bold print that it
20 is offered for repair and retreatment or for retreatment only
21 or that no warranty or guarantee is offered.~~A disclaimer~~
22 ~~indicating that no guarantee or warranty is offered under the~~
23 ~~contract must appear in conspicuous type on the face of the~~
24 ~~contract.~~

25 (3) The contract for treatment of wood-destroying
26 organisms must specify on the first page in bold print whether
27 there are any disclaimers, limitations, conditions, or
28 exclusions on the licensee's obligation to repair or re-treat
29 the property. Contract sections describing disclaimers,
30 limitations, conditions, or exclusions applicable to the
31

1 licensee's obligation to repair or retreat the property must
2 contain headings in bold print.

3 (4) If a contract for treatment of wood-destroying
4 organisms contains a disclaimer, limitation, condition, or
5 exclusion applicable to the licensee's obligation to repair or
6 retreat the property, the term "full" or "unlimited" may not
7 be used together with the term "guarantee" or "warranty."

8 Section 22. It is the intent of the Legislature to
9 phase in the requirements set forth in section 11 to provide
10 that the requirements of section 482.227, Florida Statutes, as
11 amended by section 11 apply only to contracts for the
12 treatment of wood-destroying organisms issued by the licensee
13 and signed by the customer on or after October 1, 2003.

14 Section 23. Subsection (3) of section 482.2401,
15 Florida Statutes, is amended to read:

16 482.2401 Disposition and use of revenues from fees and
17 fines.--

18 (3) All revenues from administrative fines shall be
19 used to support contract research or education in ~~all~~ pest
20 control ~~categories~~. The department shall appoint a committee
21 composed of pest control industry members which shall assist
22 the department in establishing research or education
23 priorities, in developing requests for proposals for bids, and
24 in selecting research or education contractors from qualified
25 bidders.

26 Section 24. Section 482.243, Florida Statutes, is
27 created to read:

28 482.243 Pest Control Enforcement Advisory Council.--

29 (1) The Pest Control Enforcement Advisory Council is
30 created within the department. The Commissioner of Agriculture
31 shall appoint all members of the council. The purpose of the

1 council is to advise the Commissioner of Agriculture regarding
2 the regulation of pest control practices and to advise
3 government agencies with respect to those activities related
4 to their responsibilities regarding pest control. The council
5 shall serve as the statewide forum for the coordination of
6 pest control related activities to eliminate duplication of
7 effort and maximize protection of the public.

8 (2) The council shall consist of 11 members as
9 follows: a representative of the department; a citizen not
10 involved in the conduct of pest control; a state university
11 urban entomologist; and eight persons each holding a pest
12 control operator's certificate issued under s. 482.111, of
13 whom two shall be actively involved in termite control, two
14 shall be actively involved in general household pest control,
15 two shall be actively involved in structural fumigation, and
16 two shall be actively involved in lawn and landscape pest
17 control. Each member shall be appointed for a term of 4 years
18 and shall serve until a successor is appointed.

19 (3) In conducting its meetings, the council shall use
20 Robert's Rules of Order. A majority of the members of the
21 council constitutes a quorum for all purposes, and an act by a
22 majority of such quorum at any meeting constitutes an official
23 act of the council. The secretary shall keep a complete record
24 of each meeting which must show the names of members present
25 and the actions taken. These records must be kept on file with
26 the department, and these records and other documents about
27 matters within the jurisdiction of the council are subject to
28 inspection by members of the council.

29 (4) The members of the council shall meet and organize
30 by electing a chair, a vice chair, and a secretary whose terms
31

1 shall be for 1 year each. Council officers may not serve
2 consecutive terms.

3 (5) The council shall meet at the call of its chair,
4 at the request of a majority of its members, at the request of
5 the department, or at such time as a public health or
6 environmental emergency arises.

7 (6) The meetings, powers and duties, procedures,
8 recordkeeping, and reimbursement of expenses of members of the
9 council shall be in accordance with the provisions of s.
10 570.0705 relating to advisory committees established within
11 the department.

12 (7) The council shall receive reports of pest control
13 enforcement activity conducted by the Division of Agricultural
14 Environmental Services, which shall include numbers of cases,
15 numbers of administrative actions, numbers of complaints
16 received and investigated, and dispositions of complaints;
17 provide advice to the department on the conduct of pest
18 control enforcement activities; receive reports on
19 disciplinary actions, provided that the names of individual
20 licensees shall be expunged from cases discussed before the
21 council, unless a consent order or final order has been issued
22 in the case; and make recommendations, subject to a majority
23 vote, directly to the Commissioner of Agriculture for actions
24 to be taken with respect to the regulation of pest control
25 services and practices that the council has reviewed.

26 Section 25. Subsection (2) of section 487.041, Florida
27 Statutes, is amended to read:

28 487.041 Registration.--

29 (2) For the purpose of defraying expenses of the
30 department in connection with carrying out the provisions of
31 this chapter, each person shall pay an annual registration fee

1 of ~~\$250~~^{\$225} for each registered pesticide. The annual
2 registration fee for each special local need label and
3 experimental use permit shall be \$100. All registrations
4 expire on December 31 of each year. Nothing in this section
5 shall be construed as applying to distributors or retail
6 dealers selling pesticides when such pesticides are registered
7 by another person.

8 Section 26. Subsection (6) is added to section
9 500.121, Florida Statutes, to read:

10 500.121 Disciplinary procedures.--

11 (6) If the department determines that a food offered
12 in a food establishment is labeled with nutrient claims that
13 are in violation of this chapter, the department shall retest
14 or reexamine the product within 90 days after notification to
15 the manufacturer and to the firm at which the product was
16 collected. If the product is again found in violation, the
17 department shall test or examine the product for a third time
18 within 60 days after the second notification. The product
19 manufacturer shall reimburse the department for the cost of
20 the third test or examination. If the product is found in
21 violation for a third time, the department shall exercise its
22 authority under s. 500.172 and issue a stop-sale or stop-use
23 order. The department may impose additional sanctions for
24 violations of this subsection.

25 Section 27. Subsection (3) is added to section
26 500.148, Florida Statutes, to read:

27 500.148 Reports and dissemination of information.--

28 (3) Upon request of a food establishment, the
29 department may issue a report certifying that the requesting
30 food establishment currently complies with the sanitation and
31 permitting requirements of this chapter and the rules

1 promulgated thereunder. Such certification may be requested
2 for the purpose of exporting food to a foreign country. The
3 department is authorized to recover the cost associated with
4 carrying out the provisions of this subsection, the amount of
5 which shall be set by rule.

6 Section 28. Subsection (8) is added to section
7 501.160, Florida Statutes, to read:

8 501.160 Rental or sale of essential commodities during
9 a declared state of emergency; prohibition against
10 unconscionable prices.--

11 (8) Any violation of this section may be enforced by
12 the Department of Agriculture and Consumer Services, the
13 office of the state attorney, or the Department of Legal
14 Affairs.

15 Section 29. Subsection (35) of section 570.07, Florida
16 Statutes, is amended to read:

17 570.07 Department of Agriculture and Consumer
18 Services; functions, powers, and duties.--The department shall
19 have and exercise the following functions, powers, and duties:

20 (35) Under emergency conditions, to authorize the
21 purchase of supplemental nutritional food and drink items,
22 provide meals when personnel cannot leave an emergency
23 incident location, and set temporary meal expenditure limits
24 for employees engaged in physical activity for prolonged
25 periods of time in excess of the rate established by s.
26 112.061(6), but not to exceed \$50 per day.

27 Section 30. Subsection (8) of section 573.124, Florida
28 Statutes, is amended to read:

29 573.124 Penalties; violation; hearings.--
30
31

1 (8) It shall be a felony of the third degree
2 ~~misdemeanor of the second degree~~, punishable as provided in s.
3 775.082 or s. 775.083, for:

4 (a) Any person to willfully render or furnish a false
5 or fraudulent report, statement, or record required by the
6 department, or any marketing agreement or marketing order
7 effective thereunder.

8 (b) Any person engaged in the handling of any
9 agricultural commodity or in the wholesale or retail trade
10 thereof to fail or refuse to furnish to the department or its
11 duly authorized agents, upon request, information concerning
12 the name and address of the persons from whom he or she has
13 received any agricultural commodity regulated by a marketing
14 order issued and in effect hereunder, and the quantity of the
15 commodity so received.

16 Section 31. Section 581.091, Florida Statutes, is
17 amended to read:

18 581.091 Noxious weeds and infected plants or regulated
19 articles; sale or distribution; receipt; information to
20 department; withholding information.--

21 (1) It is unlawful for any person to knowingly sell,
22 offer for sale, or distribute any noxious weed, or any plant
23 or plant product or regulated article infested or infected
24 with any plant pest declared, by rule of the department, to be
25 a public nuisance or a threat to the state's agricultural and
26 horticultural interests.

27 (2) Any person who knows or reasonably should know
28 that such person possesses or has knowingly received any
29 noxious weed or any plant, plant product, or regulated article
30 sold, given away, carried, shipped, or delivered for carriage
31 or shipment in violation of the provisions of this chapter or

1 the rules adopted thereunder shall immediately inform the
2 department and isolate and hold the weed, plant, plant
3 product, or other thing unopened or unused subject to
4 inspection or other disposition as may be provided by the
5 department.

6 (3) It is unlawful for any person to fail to disclose
7 or withhold available information regarding any infected or
8 infested plant, plant product, regulated article, or noxious
9 weed.

10 (4) The department, in conjunction with the Institute
11 of Food and Agricultural Sciences at the University of
12 Florida, shall biennially review the official state lists of
13 noxious weeds and invasive plants as provided for under this
14 chapter and department rules. The plants listed in s. 369.251
15 shall be incorporated into the department lists as provided
16 for under this chapter. A water management district when
17 identifying by rule pursuant to s. 373.185, or a local
18 government when identifying by ordinance or regulation adopted
19 on or after March 1, 2002, a list of noxious weeds, invasive
20 plants, or plants deemed to be a public nuisance or threat,
21 shall only adopt the lists developed under this chapter or
22 rules adopted thereunder. All local government ordinances or
23 regulations, adopted prior to March 1, 2002, that list noxious
24 weeds or invasive plants shall remain in effect. All local
25 ordinances or regulations requiring the removal of invasive
26 plants or noxious weeds from publicly or privately owned
27 conservation areas or preserves shall be exempt from the
28 limitations in this subsection.

29 Section 32. Subsection (5) of section 585.002, Florida
30 Statutes, is amended to read:

31

1 585.002 Department control; continuance of powers,
2 duties, rules, orders, etc.--

3 (5) The department shall, by rule, establish a fee
4 schedule to cover the approximate costs associated with
5 carrying out the provisions of this chapter. This shall
6 include establishment of fees for provision of health forms,
7 required certificates, certifications, permits, quality
8 assurance programs,and services. No individual fee shall
9 exceed \$200, except that the fee for carrying out the
10 quarantine requirements relating to horses imported from
11 countries where contagious equine metritis exists shall not
12 exceed \$1,500. These fees shall be deposited in the
13 department's General Inspection Trust Fund.

14 Section 33. Subsection (5) is added to section 585.08,
15 Florida Statutes, to read:

16 585.08 General powers of the department; rules.--The
17 Division of Animal Industry is authorized to:

18 (5) Condemn and destroy any animal that is liable to
19 spread any contagious, infectious, or communicable disease
20 based upon sound epidemiological facts and conclusions to
21 prevent the further spread of disease when a state or
22 agricultural declaration of emergency has been declared by the
23 Governor or the Commissioner of Agriculture.

24 Section 34. Section 585.09, Florida Statutes, is
25 amended to read:

26 585.09 Procedure for condemnation of animals and
27 property by department.--Condemnation and destruction of
28 animals, barns, yards, sheds, corrals, and pens, as provided
29 in s. 585.08, shall take place only after a fair appraisal of
30 the value of the property. The value shall be determined by
31 the department and the owner; provided, however, should the

1 department and the owner be unable to agree on a value, the
 2 value shall then be determined by three disinterested
 3 appraisers, one to be appointed by the department, one by the
 4 owner of the property, and the third to be selected by these
 5 two. The appraised price, ~~subject to the provisions of s.~~
 6 ~~585.10~~, shall be paid by the department as other expenses are
 7 paid. If the owner of such animal, barn, yard, shed, corral,
 8 or pen fails or refuses to name an appraiser within 5 days
 9 after requested by the department to do so, or refuses to
 10 permit the property to be condemned and destroyed, the
 11 department may make an order to the sheriff of the county
 12 wherein the property lies, directing her or him to destroy
 13 such animal, barn, yard, shed, corral, or pen, in the manner
 14 to be prescribed in the order. The order shall be immediately
 15 executed by the sheriff. Upon the destruction of the property
 16 by the sheriff, the department shall have the right to
 17 recover, from the owner of the property destroyed, all costs
 18 and expenses incurred by it in connection with the
 19 destruction.

20 Section 35. Section 585.10, Florida Statutes, is
 21 repealed.

22 Section 36. Section 585.11, Florida Statutes, is
 23 amended to read:

24 585.11 Cooperation with United States authorities and
 25 United States Department of Agriculture accredited private
 26 veterinarians.--The department may cooperate with:

27 (1) The authorities of the United States in the
 28 enforcement of all acts of Congress for the control,
 29 prevention, suppression, and eradication of contagious,
 30 infectious, and communicable diseases affecting animals, or
 31

1 animal diseases which may affect humans, and in connection
2 therewith may:

3 (a) Appoint inspectors of the United States Department
4 of Agriculture as temporary assistant state veterinarians or
5 livestock inspectors; provided, they shall first consent to
6 act without compensation or profit from the state;

7 (b) Accept aid or assistance from the United States in
8 conducting work related to the control or eradication of
9 tuberculosis, brucellosis, pseudorabies, hog cholera, and any
10 other such dangerous disease, or from any of its officers,
11 representatives, or agents, in carrying out such work.

12 (2) The officials of the United States Department of
13 Agriculture in the control or eradication of tuberculosis,
14 brucellosis, pseudorabies, and hog cholera and with the owners
15 of animals, who accept indemnity for animals found to be
16 diseased and slaughtered in accordance with the special Acts
17 of Congress now in effect and appropriating funds for this
18 purpose, or that may hereafter be available from such source.

19 (3) The United States Department of Agriculture in
20 carrying out the provisions of the National Poultry
21 Improvement Plan and the National Turkey Improvement Plan in
22 Florida, and in connection therewith, may promulgate rules
23 necessary to carry out the provisions of the National Poultry
24 Improvement Plan and the National Turkey Improvement Plan in
25 Florida.

26 (4) Appointed United States Department of Agriculture
27 accredited private veterinarians in conducting work related to
28 the control or eradication of contagious and infectious
29 diseases, who may be compensated for services.

30 Section 37. Subsection (1) of section 585.21, Florida
31 Statutes, is amended to read:

1 585.21 Sale of biological products.--

2 (1) Each biological product intended for diagnostic or
3 therapeutic purposes for animals which is manufactured for
4 sale or sold in the state shall first be officially approved
5 by the United States Department of Agriculture and shall have
6 written permission of the Department of Agriculture and
7 Consumer Services prior to sale in the state.

8 Section 38. Subsection (3) of section 585.61, Florida
9 Statutes, is amended to read:

10 585.61 Animal disease diagnostic laboratories.--

11 (3) Any person who maintains animals in the state may
12 use the services of the laboratories under the terms of this
13 section and the rules adopted for such use by the department.
14 The department shall require any user of its services to pay a
15 fee not to exceed ~~\$300~~\$15 for any one of the services
16 requested, ~~except that a fee for necropsy may be imposed in an~~
17 ~~amount not to exceed \$70.~~ All laboratory fees collected shall
18 be deposited in the Animal Industry Diagnostic Laboratory
19 Account within the General Inspection Trust Fund. The fees
20 collected shall be used to improve the diagnostic laboratory
21 services as provided for by the Legislature in the General
22 Appropriations Act.

23 Section 39. Subsections (1) and (5) of section 590.02,
24 Florida Statutes, are amended to read:

25 590.02 Division powers, authority, and duties;
26 liability; building structures; Florida Center for Wildfire
27 and Forest Resources Management Training.--

28 (1) The division has the following powers, authority,
29 and duties:

30 (a) To enforce the provisions of this chapter;

31

1 (b) To prevent, detect, suppress, and extinguish
2 wildfires wherever they may occur on public or private land in
3 this state and to do all things necessary in the exercise of
4 such powers, authority, and duties;

5 (c) To provide firefighting crews, who shall be under
6 the control and direction of the division and its designated
7 agents;

8 (d) To appoint center managers, forest area
9 supervisors, forestry program administrators, a forest
10 protection bureau chief, a forest protection assistant bureau
11 chief, a field operations bureau chief, deputy chiefs of field
12 operations, district managers, senior forest rangers,
13 investigators, forest rangers, firefighter rotorcraft pilots,
14 and other employees who may, at the division's discretion, be
15 certified as forestry firefighters pursuant to s. 633.35(4).
16 Other provisions of law notwithstanding, center managers,
17 district managers, forest protection assistant bureau chief,
18 and deputy chiefs of field operations shall have Selected
19 Exempt Service status in the state personnel designation;

20 (e) To develop a training curriculum for forestry
21 firefighters which must contain the basic volunteer structural
22 fire training course approved by the Florida State Fire
23 College of the Division of State Fire Marshal and a minimum of
24 250 hours of wildfire training;

25 (f) To make rules to accomplish the purposes of this
26 chapter; ~~and~~

27 (g) To provide fire management services and emergency
28 response assistance and to set and charge reasonable fees for
29 performance of those services. Moneys collected from such fees
30 shall be deposited into the Incidental Trust Fund of the
31 division; and

1 (h) To require all state, regional, and local
2 government agencies operating aircraft in the vicinity of an
3 ongoing wildfire to operate in compliance with the applicable
4 state Wildfire Aviation Plan.

5 (5) The division shall organize its operational units
6 to most effectively prevent, detect, and suppress wildfires,
7 and to that end, may employ the necessary personnel to manage
8 its activities in each unit. The division may construct
9 lookout towers, roads, bridges, firelines, and other
10 facilities and may purchase or fabricate tools, supplies, and
11 equipment for firefighting. The division may reimburse the
12 public and private entities that it engages to assist in the
13 suppression of wildfires for their personnel and equipment,
14 including aircraft.

15 (a) The Cross City Work Center shall be named the L.
16 Earl Peterson Forestry Station. This is to honor Mr. L. Earl
17 Peterson. Florida's sixth state forester, whose distinguished
18 career in state government has spanned 44 years and who is a
19 native of Dixie County.

20 Section 40. Section 590.11, Florida Statutes, is
21 amended to read:

22 590.11 Recreational fires.--

23 (1) It is unlawful for any individual or group of
24 individuals to build a warming fire, bonfire, or campfire and
25 leave it unattended or unextinguished.

26 (2) Anyone who violates this section commits a
27 misdemeanor of the second degree, punishable as provided in s.
28 775.082 or s. 775.083.

29 Section 41. Paragraph (b) of subsection (3) and
30 subsections (4) and (5) of section 590.125, Florida Statutes,
31 are amended to read:

1 590.125 Open burning authorized by the division.--

2 (3) CERTIFIED PRESCRIBED BURNING; LEGISLATIVE FINDINGS
3 AND PURPOSE.--

4 (b) Certified prescribed burning pertains only to
5 broadcast burning. It must be conducted in accordance with
6 this subsection and:

7 1. May ~~only~~ be accomplished only when a certified
8 prescribed burn manager is present on site with a copy of the
9 prescription from ignition of the burn to its completion.

10 2. Requires that a written prescription be prepared
11 before receiving authorization to burn from the division.

12 3. Requires that the specific consent of the landowner
13 or his or her designee be obtained before requesting an
14 authorization.

15 4. Requires that an authorization to burn be obtained
16 from the division before igniting the burn.

17 5. Requires that there be adequate firebreaks at the
18 burn site and sufficient personnel and firefighting equipment
19 for the control of the fire.

20 6. Is considered to be in the public interest and does
21 not constitute a public or private nuisance when conducted
22 under applicable state air pollution statutes and rules.

23 7. Is considered to be a property right of the
24 property owner if vegetative fuels are burned as required in
25 this subsection.

26 (4) WILDFIRE HAZARD REDUCTION TREATMENT ~~BURNING~~ BY THE
27 DIVISION.--The division may conduct fuel reduction
28 initiatives, including, but not limited to, burning and
29 mechanical and chemical treatment, on ~~prescribe burn~~ any area
30 of wild land within the state which is reasonably determined
31

1 to be in danger of wildfire in accordance with the following
2 procedures:

3 (a) Describe the areas that will receive fuels
4 treatment ~~be prescribe burned~~ to the affected local
5 governmental entity.

6 (b) Publish a treatment ~~prescribed burn~~ notice,
7 including a description of the area to be treated ~~burned~~, in a
8 conspicuous manner in at least one newspaper of general
9 circulation in the area of the treatment ~~burn~~ not less than 10
10 days before the treatment ~~burn~~.

11 (c) Prepare, and the county tax collector shall
12 include with the annual tax statement, a notice to be sent to
13 all landowners in each township designated by the division as
14 a wildfire hazard area. The notice must describe particularly
15 the area to be treated ~~burned~~ and the tentative date or dates
16 of the treatment ~~burning~~ and must list the reasons for and the
17 expected benefits from the wildfire hazard reduction
18 ~~prescribed burning~~.

19 (d) Consider any landowner objections to the fuels
20 treatment ~~prescribed burning~~ of his or her property. The
21 landowner may apply to the director of the division for a
22 review of alternative methods of fuel reduction on the
23 property. If the director or his or her designee does not
24 resolve the landowner objection, the director shall convene a
25 panel made up of the local forestry unit manager, the fire
26 chief of the jurisdiction, and the affected county or city
27 manager, or any of their designees. If the panel's
28 recommendation is not acceptable to the landowner, the
29 landowner may request further consideration by the
30 Commissioner of Agriculture or his or her designee and shall
31

1 thereafter be entitled to an administrative hearing pursuant
2 to the provisions of chapter 120.

3 (5) DUTIES OF AGENCIES.--The Department of Education
4 shall incorporate, where feasible and appropriate, the issues
5 of fuels treatment, including prescribed burning into its
6 educational materials.

7 Section 42. Subsection (4) is added to section
8 597.020, Florida Statutes, to read:

9 597.020 Shellfish processors; regulation.--

10 (4) Any license or certification authorized and issued
11 under this chapter shall automatically expire on June 30 of
12 each year.

13 Section 43. Paragraph (a) of subsection (7) and
14 paragraph (a) of subsection (14) of section 616.242, Florida
15 Statutes, are amended to read:

16 616.242 Safety standards for amusement rides.--

17 (7) DEPARTMENT INSPECTIONS.--

18 (a) In order to obtain an annual permit, an amusement
19 ride must be inspected by the department in accordance with
20 subsection (11) and receive an inspection certificate. In
21 addition, each permanent amusement ride must be inspected
22 semiannually by the department in accordance with subsection
23 (11) and receive an inspection certificate, and each temporary
24 amusement ride must be inspected by the department in
25 accordance with subsection (11), and must receive an
26 inspection certificate each time the ride is set up or moved
27 to a new location in this state unless the temporary amusement
28 ride is:

29 1. Used at a private event; ~~or~~

30 2. A simulator, the capacity of which does not exceed
31 16 persons; or

1 3. A kiddie ride used at a public event, provided that
2 there are no more than three amusement rides at the event,
3 none of the kiddie rides at the event exceed a capacity of 12
4 persons, and the ride has an inspection certificate that was
5 issued within the preceding 6 months. The capacity of a kiddie
6 ride shall be determined by rule of the department, unless the
7 capacity of the ride has been determined and specified by the
8 manufacturer. Any owner of a kiddie ride operating under this
9 exemption is responsible for ensuring that no more than three
10 amusement rides are operated at the event.

11 (14) REPORTING AND INVESTIGATION OF ACCIDENTS AND
12 DEFECTS; IMPOUNDMENTS.--

13 (a) Any accident of which the owner or manager has
14 knowledge or, through the exercise of reasonable diligence
15 should have knowledge, and for which a patron is transported
16 to a hospital, as defined in chapter 395, must be reported by
17 the owner or manager to the department by telephone ~~or~~
18 ~~facsimile~~ within 4 hours after the occurrence of the accident
19 and must be followed up by a written report to the department
20 within 24 hours after the occurrence of the accident.

21 Section 44. Subsection (8) of section 496.404, Florida
22 Statutes, is amended to read:

23 496.404 Definitions.--As used in ss. 496.401-496.424:

24 (8) "Educational institutions" means those
25 institutions and organizations described in s.
26 212.08(7)(cc)8.a. The term includes private nonprofit
27 organizations, the purpose of which is to raise funds for
28 schools teaching grades kindergarten through grade 12,
29 colleges, and universities, including any nonprofit newspaper
30 of free or paid circulation primarily on university or college
31 campuses which holds a current exemption from federal income

1 tax under s. 501(c)(3) of the Internal Revenue Code, any
2 educational television or radio network or system established
3 pursuant to s. 229.805 or s. 229.8051, and any nonprofit
4 television or radio station that is a part of such network or
5 system and that holds a current exemption from federal income
6 tax under s. 501(c)(3) of the Internal Revenue Code. The term
7 also includes a nonprofit educational cable consortium that
8 holds a current exemption from federal income tax under s.
9 501(c)(3) of the Internal Revenue Code, whose primary purpose
10 is the delivery of educational and instructional cable
11 television programming and whose members are composed
12 exclusively of educational organizations that hold a valid
13 consumer certificate of exemption and that are either an
14 educational institution as defined in this subsection or
15 qualified as a nonprofit organization pursuant to s. 501(c)(3)
16 of the Internal Revenue Code.

17 Section 45. (1) The building known as the U.S.D.A.
18 Service Center Building, located at 1700 Highway 17-98 South
19 in Bartow is designated the John W. Hunt Building.

20 (2) The Department of Agriculture and Consumer
21 Services is authorized to erect a suitable marker for the
22 designation made by this section.

23 Section 46. Paragraph (a) of subsection (1) of section
24 316.640, Florida Statutes, is amended to read:

25 316.640 Enforcement.--The enforcement of the traffic
26 laws of this state is vested as follows:

27 (1) STATE.--

28 (a)1.a. The Division of Florida Highway Patrol of the
29 Department of Highway Safety and Motor Vehicles, the Division
30 of Law Enforcement of the Fish and Wildlife Conservation
31 Commission, the Division of Law Enforcement of the Department

1 of Environmental Protection, and law enforcement officers of
2 the Department of Transportation each have authority to
3 enforce all of the traffic laws of this state on all the
4 streets and highways thereof and elsewhere throughout the
5 state wherever the public has a right to travel by motor
6 vehicle. The Division of the Florida Highway Patrol may employ
7 as a traffic accident investigation officer any individual who
8 successfully completes at least 200 hours of instruction in
9 traffic accident investigation and court presentation through
10 the Selective Traffic Enforcement Program as approved by the
11 Criminal Justice Standards and Training Commission and funded
12 through the National Highway Traffic Safety Administration or
13 a similar program approved by the commission, but who does not
14 necessarily meet the uniform minimum standards established by
15 the commission for law enforcement officers or auxiliary law
16 enforcement officers under chapter 943. Any such traffic
17 accident investigation officer who makes an investigation at
18 the scene of a traffic accident may issue traffic citations,
19 based upon personal investigation, when he or she has
20 reasonable and probable grounds to believe that a person who
21 was involved in the accident committed an offense under this
22 chapter, chapter 319, chapter 320, or chapter 322 in
23 connection with the accident. This paragraph does not permit
24 the carrying of firearms or other weapons, nor do such
25 officers have arrest authority other than for the issuance of
26 a traffic citation as authorized in this paragraph.

27 b. University police officers shall have authority to
28 enforce all of the traffic laws of this state when such
29 violations occur on or about any property or facilities that
30 are under the guidance, supervision, regulation, or control of
31

1 the State University System, except that traffic laws may be
2 enforced off-campus when hot pursuit originates on-campus.

3 c. Community college police officers shall have the
4 authority to enforce all the traffic laws of this state only
5 when such violations occur on any property or facilities that
6 are under the guidance, supervision, regulation, or control of
7 the community college system.

8 d. Police officers employed by an airport authority
9 shall have the authority to enforce all of the traffic laws of
10 this state only when such violations occur on any property or
11 facilities that are owned or operated by an airport authority.

12 (I) An airport authority may employ as a parking
13 enforcement specialist any individual who successfully
14 completes a training program established and approved by the
15 Criminal Justice Standards and Training Commission for parking
16 enforcement specialists but who does not otherwise meet the
17 uniform minimum standards established by the commission for
18 law enforcement officers or auxiliary or part-time officers
19 under s. 943.12. Nothing in this sub-sub-paragraph shall be
20 construed to permit the carrying of firearms or other weapons,
21 nor shall such parking enforcement specialist have arrest
22 authority.

23 (II) A parking enforcement specialist employed by an
24 airport authority is authorized to enforce all state, county,
25 and municipal laws and ordinances governing parking only when
26 such violations are on property or facilities owned or
27 operated by the airport authority employing the specialist, by
28 appropriate state, county, or municipal traffic citation.

29 e. The Office of Agricultural Law Enforcement of the
30 Department of Agriculture and Consumer Services shall have the
31 authority to enforce traffic laws of this state ~~only as~~

1 ~~authorized by the provisions of chapter 570. However, nothing~~
2 ~~in this section shall expand the authority of the Office of~~
3 ~~Agricultural Law Enforcement at its agricultural inspection~~
4 ~~stations to issue any traffic tickets except those traffic~~
5 ~~tickets for vehicles illegally passing the inspection station.~~

6 f. School safety officers shall have the authority to
7 enforce all of the traffic laws of this state when such
8 violations occur on or about any property or facilities which
9 are under the guidance, supervision, regulation, or control of
10 the district school board.

11 2. An agency of the state as described in subparagraph
12 1. is prohibited from establishing a traffic citation quota. A
13 violation of this subparagraph is not subject to the penalties
14 provided in chapter 318.

15 3. Any disciplinary action taken or performance
16 evaluation conducted by an agency of the state as described in
17 subparagraph 1. of a law enforcement officer's traffic
18 enforcement activity must be in accordance with written
19 work-performance standards. Such standards must be approved by
20 the agency and any collective bargaining unit representing
21 such law enforcement officer. A violation of this subparagraph
22 is not subject to the penalties provided in chapter 318.

23 Section 47. Section 570.073, Florida Statutes, is
24 amended to read:

25 570.073 Department of Agriculture and Consumer
26 Services, law enforcement officers.--

27 (1) The commissioner may create an Office of
28 Agricultural Law Enforcement under the supervision of a senior
29 manager exempt under s. 110.205 in the Senior Management
30 Service. The commissioner may designate law enforcement
31 officers, as necessary, to enforce any criminal law or conduct

1 any criminal investigation or to enforce the provisions of any
2 statute or any other laws of this state. Officers appointed
3 under this section shall have the primary responsibility for
4 enforcing laws relating to agriculture and consumer services,
5 as outlined in this section, and have jurisdiction over
6 violations of law which threaten the overall security and
7 safety of this state's agriculture and consumer services. The
8 primary responsibilities of officers appointed under this
9 section include the enforcement of ~~relating to any matter over~~
10 ~~which the department has jurisdiction or which occurs on~~
11 ~~property owned, managed, or occupied by the department. Those~~
12 ~~matters include laws relating to:~~

13 (a) Domesticated animals, including livestock,
14 poultry, aquaculture products, and other wild or domesticated
15 animals or animal products.

16 (b) Farms, farm equipment, livery tack, citrus or
17 citrus products, or horticultural products.

18 (c) Trespass, littering, forests, forest fires, and
19 open burning.

20 (d) Damage to or theft of forest products.

21 (e) Enforcement of a marketing order.

22 (f) Protection of consumers.

23 (g) Civil traffic offenses as provided for in state
24 ~~law chapters 316, 320, and 322, subject to the provisions of~~
25 ~~chapter 318, relating to any matter over which the department~~
26 ~~has jurisdiction or committed on property owned, managed, or~~
27 ~~occupied by the department.~~

28 (h) The use of alcohol or drugs which occurs on
29 property owned, managed, or occupied by the department.

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31

1 (i) Any emergency situation in which the life, limb,
2 or property of any person is placed in immediate and serious
3 danger.

4 (j) Any crime incidental to or related to paragraphs
5 (a)-(i).

6 (k) The responsibilities of the Commissioner of
7 Agriculture.

8 (2) Each law enforcement officer shall meet the
9 qualifications of law enforcement officers under s. 943.13 and
10 shall be certified as a law enforcement officer by the
11 Department of Law Enforcement under the provisions of chapter
12 943. Upon certification, each law enforcement officer is
13 subject to and shall have the same arrest and other authority
14 provided for law enforcement officers generally in chapter 901
15 and shall have statewide jurisdiction as provided in
16 subsection (1). Each officer shall also have arrest authority
17 as provided for state law enforcement officers in s. 901.15 s.
18 901.15(11). Such officers have full law enforcement powers
19 granted to other peace officers of this state, including the
20 authority to make arrests, carry firearms, serve court
21 process, and seize contraband and the proceeds of illegal
22 activities.

23 (3) The commissioner may also appoint part-time,
24 reserve, or auxiliary law enforcement officers under chapter
25 943.

26 (4)(3) All department law enforcement officers, upon
27 certification under s. 943.1395, shall have the same right and
28 authority to carry arms as do the sheriffs of this state.

29 (5)(4) Each law enforcement officer in the state who
30 is certified pursuant to chapter 943 has the same authority as
31

1 law enforcement officers designated in this section to enforce
2 the laws of this state as described in subsection (1).

3 Section 48. Paragraph (b) of subsection (5) of section
4 570.71, Florida Statutes, is amended to read:

5 570.71 Conservation easements and agreements.--

6 (5) Agricultural protection agreements shall be for
7 terms of 30 years and will provide payments to landowners
8 having significant natural areas on their land. Public access
9 and public recreational opportunities may be negotiated at the
10 request of the landowner.

11 (b) As part of the agricultural protection agreement,
12 the parties shall agree that the state shall have a right to
13 buy a conservation easement or rural land protection easement
14 at the end of the 30-year term ~~or prior to the landowner~~
15 ~~transferring or selling the property, whichever occurs later.~~
16 If the landowner tenders the easement for the purchase and the
17 state does not timely exercise its right to buy the easement,
18 the landowner shall be released from the agricultural
19 agreement. The purchase price of the easement shall be
20 established in the agreement and shall be based on the value
21 of the easement at the time the agreement is entered into,
22 plus a reasonable escalator multiplied by the number of full
23 calendar years following the date of the commencement of the
24 agreement. The landowner may transfer or sell the property
25 before the expiration of the 30-year term, but only if the
26 property is sold subject to the agreement and the buyer
27 becomes the successor in interest to the agricultural
28 protection agreement. Upon mutual consent of the parties, a
29 landowner may enter into a perpetual easement at any time
30 during the term of an agricultural protection agreement.

31

1 Section 49. Subsection (3) of section 590.14, Florida
2 Statutes, is amended to read:

3 590.14 Notice of violation; penalties.--

4 (3) The department may also impose an administrative
5 fine, not to exceed \$1,000 per violation of any section of
6 chapter 589 or this chapter. The fine shall be based upon the
7 degree of damage, the and prior violation record of the
8 person, and whether the person knowingly provided false
9 information to obtain an authorization. The fines shall be
10 deposited in the Incidental Trust Fund of the division.

11 Section 50. Section 604.40, Florida Statutes, is
12 created to read:

13 604.40 Farm equipment.--Notwithstanding any other law,
14 ordinance, rule or policy to the contrary, all power-drawn,
15 power-driven or self-propelled equipment used on a farm may be
16 stored, maintained, or repaired by the owner within the
17 boundaries of the owner's farm and at least 50 feet away from
18 any public road without limitation.

19 Section 51. Section 604.50, Florida Statutes, is
20 amended to read:

21 604.50 Nonresidential farm buildings.--Notwithstanding
22 any other law to the contrary, any nonresidential farm
23 building ~~located on a farm~~ is exempt from the Florida Building
24 Code and any county or municipal building code. For purposes
25 of this section, the term "nonresidential farm building" means
26 any building or support structure that is used for
27 agricultural purposes, is located on a farm that is not used
28 as a residential dwelling, and is located on land that is an
29 integral part of a farm operation or is classified as
30 agricultural land under s. 193.461. The term "farm" is as
31 defined in s. 823.14.

1 Section 52. There is appropriated to the Department of
2 Agriculture and Consumer Services from the General Inspection
3 Trust Fund of the Division of Food Safety of the Department of
4 Agriculture and Consumer Services, one position and \$73,671 to
5 carry out the provisions of this act.

6 Section 53. Chapter 261, Florida Statutes, consisting
7 of sections 261.01, 261.02, 261.03, 261.04, 261.05, 261.06,
8 261.07, 261.08, 261.09, 261.10, 261.11, and 261.12, Florida
9 Statutes, is created to read:

10 261.01 Short title.--This chapter may be cited as the
11 "T. Mark Schmidt Off-Highway Vehicle Safety and Recreation
12 Act."

13 261.02 Legislative findings and intent.--

14 (1) The Legislature finds that off-highway vehicles
15 are becoming increasingly popular in this state and that the
16 use of these vehicles should be controlled and managed to
17 minimize negative effects on the environment, wildlife
18 habitats, native wildlife, and native flora and fauna.

19 (2) The Legislature declares that effectively managed
20 areas and adequate facilities for the use of off-highway
21 vehicles are compatible with this state's overall recreation
22 plan and the underlying goal of multiple use.

23 (3) It is the intent of the Legislature that:

24 (a) Existing off-highway vehicle recreational areas,
25 facilities, and opportunities be improved and appropriately
26 expanded and be managed in a manner consistent with this
27 chapter, in particular to maintain natural resources and
28 sustained long-term use of off-highway vehicle trails and
29 areas.

30 (b) New off-highway vehicle recreational areas,
31 facilities, and opportunities be provided and managed pursuant

1 to this chapter in a manner that will sustain both long-term
2 use and the environment.

3 (4) Nothing contained within this chapter shall be
4 construed to require the construction or maintenance of
5 off-highway vehicle recreation areas, facilities, or trails on
6 public lands where such construction or maintenance would be
7 inconsistent with the property's management objectives or land
8 management plan.

9 261.03 Definitions.--As used in this chapter, the
10 term:

11 (1) "Advisory committee" means the Off-Highway Vehicle
12 Recreation Advisory Committee created by s. 261.04.

13 (2) "ATV" means any motorized off-highway or
14 all-terrain vehicle 50 inches or less in width, having a dry
15 weight of 900 pounds or less, designed to travel on three or
16 more low-pressure tires, having a seat designed to be
17 straddled by the operator and handlebars for steering control,
18 and intended for use by a single operator with no passenger.

19 (3) "Department" means the Department of Agriculture
20 and Consumer Services.

21 (4) "Division" means the Division of Forestry of the
22 Department of Agriculture and Consumer Services.

23 (5) "OHM" or "off-highway motorcycle" means any motor
24 vehicle used off the roads or highways of this state that has
25 a seat or saddle for the use of the rider and is designed to
26 travel with not more than two wheels in contact with the
27 ground, but excludes a tractor or a moped.

28 (6) "Off-highway vehicle" means any ATV or OHM that is
29 used off the roads or highways of this state for recreational
30 purposes and that is not registered and licensed for highway
31 use under chapter 320.

1 (7) "Program" means the Off-Highway Vehicle Recreation
2 Program.

3 (8) "Public lands" means lands within the state that
4 are available for public use and that are owned, operated, or
5 managed by a federal, state, county, or municipal governmental
6 entity.

7 (9) "System" means the off-highway vehicle recreation
8 areas and trails on public lands within the state.

9 (10) "Trust fund" means the Incidental Trust Fund of
10 the Division of Forestry of the Department of Agriculture and
11 Consumer Services.

12 261.04 Off-Highway Vehicle Recreation Advisory
13 Committee; members; appointment.--

14 (1) Effective July 1, 2003, the Off-Highway Vehicle
15 Recreation Advisory Committee is created within the Division
16 of Forestry and consists of nine members, all of whom are
17 appointed by the Commissioner of Agriculture. The appointees
18 shall include one representative of the Department of
19 Agriculture and Consumer Services, one representative of the
20 Department of Highway Safety and Motor Vehicles, one
21 representative of the Department of Environmental Protection's
22 Office of Greenways and Trails, one representative of the Fish
23 and Wildlife Conservation Commission, one citizen with
24 scientific expertise in disciplines relating to ecology,
25 wildlife biology, or other environmental sciences, one
26 representative of a licensed off-highway vehicle dealer, and
27 three representatives of off-highway vehicle recreation
28 groups. In making these appointments, the commissioner shall
29 consider the places of residence of the members to ensure
30 statewide representation.

31

1 (2) The term of office of each member of the advisory
2 committee is 2 years. The members first appointed shall
3 classify themselves by lot so that the terms of four members
4 expire June 30, 2005, and the terms of five members expire
5 June 30, 2006.

6 (3) In case of a vacancy on the advisory committee,
7 the commissioner shall appoint a successor member for the
8 unexpired portion of the term.

9 (4) The members shall elect a chair among themselves
10 who shall serve for 1 year or until a successor is elected.

11 (5) The members of the advisory committee shall serve
12 without compensation, but shall be reimbursed for travel and
13 per diem expenses as provided in s. 112.061, while in the
14 performance of their official duties.

15 261.05 Duties and responsibilities of the Off-Highway
16 Vehicle Recreation Advisory Committee.--

17 (1) The advisory committee shall establish policies to
18 guide the department regarding the Off-Highway Vehicle
19 Recreation Program and the system of off-highway vehicle
20 recreation areas and trails.

21 (2) The advisory committee shall make recommendations
22 to the department regarding off-highway vehicle safety and
23 training and education programs in the operation of such
24 vehicles.

25 (3) The advisory committee must be informed regarding
26 all governmental activities affecting the program.

27 (4) The advisory committee must be informed regarding
28 off-highway vehicle impacts and effects on the environment,
29 wildlife habitats, and native flora and fauna and shall make
30 recommendations to avoid or minimize adverse environmental
31 impacts and promote sustained long-term use.

1 (5) The advisory committee must be fully informed
2 regarding the inventory of off-highway vehicle access and
3 opportunities.

4 (6) The advisory committee shall meet at various times
5 and locations throughout the state to receive public comments
6 on the implementation of the program and shall take these
7 public comments into consideration when making its
8 recommendations.

9 (7) The advisory committee shall review and make
10 recommendations annually regarding the department's proposed
11 budget of expenditures from the designated off-highway vehicle
12 funds in the trust fund, which may include providing funds to
13 match grant funds available from other sources.

14 (8) The advisory committee shall make recommendations
15 regarding all capital outlay expenditures from the trust fund
16 proposed for inclusion in the budget and shall identify
17 additional funding sources for management, enforcement,
18 education, rehabilitation, and other duties of the land
19 management agencies related to the system.

20 (9) The advisory committee shall review grant
21 applications submitted by any governmental agency or entity or
22 nongovernmental entity requesting moneys from the trust fund
23 to create, operate, manage, or improve off-highway vehicle
24 recreation areas or trails within the state, protect and
25 restore affected natural areas in the system, or provide
26 off-highway vehicle driver education. The advisory committee
27 shall recommend to the department approval or denial of such
28 grant applications based upon criteria established by the
29 advisory committee.

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1 261.06 Functions, duties, and responsibilities of the
2 department.--The following are functions, duties, and
3 responsibilities of the department through the division:

4 (1) Coordination of the planning, development,
5 conservation, and rehabilitation of state lands in and for the
6 system.

7 (2) Coordination of the management, maintenance,
8 administration, and operation of state lands in the system and
9 the provision of law enforcement and appropriate public safety
10 activities.

11 (3) Management of the trust fund and approval of the
12 advisory committee's budget recommendations.

13 (4) Implementation of the program, including the
14 ultimate approval of grant applications submitted by
15 governmental agencies or entities or nongovernmental entities.

16 (5) Coordination to help ensure compliance with
17 environmental laws and regulations of the program and lands in
18 the system.

19 (6) Implementation of the policies established by the
20 advisory committee.

21 (7) Provision of staff assistance to the advisory
22 committee.

23 (8) Preparation of plans for lands in, or proposed to
24 be included in, the system.

25 (9) Conducting surveys and the preparation of studies
26 as are necessary or desirable for implementing the program.

27 (10) Recruitment and utilization of volunteers to
28 further the program.

29 (11) Rulemaking authority to implement the provisions
30 of ss. 261.01-261.10.

31

1 (12) In consultation with the Department of
2 Environmental Protection, the Fish and Wildlife Conservation
3 Commission, the environmental community, and the off-highway
4 vehicle industry and user groups, review of the inventory of
5 public lands to determine the feasibility of providing public
6 access for off-highway vehicle recreation and trails. The
7 department shall provide a report to the Governor and the
8 presiding officers of the Legislature by January 1, 2003. The
9 report must include at least two appropriate locations for
10 public access for off-highway vehicle recreational use and the
11 applicable cost of providing each facility. The cost section
12 of the report shall fully explain the fiscal approach of
13 renovating, maintaining, and operating each site and include a
14 recommended fee structure to support the ongoing maintenance
15 and operation of the program. The report shall also include
16 the benefits and risks of offering each site for off-highway
17 vehicle recreational use. The recommendations contained within
18 the report shall be implemented to the extent enacted or
19 appropriated by the Legislature. This subsection shall expire
20 July 1, 2003.

21 261.07 Publication and distribution of guidebook;
22 contents.--In consultation with the advisory committee, the
23 department shall publish a guidebook that includes the text of
24 this chapter, other laws and regulations relating to the
25 program, and maps of areas and trails of the system. The
26 guidebook may include other public areas, trails, and
27 facilities for the use of off-highway vehicles. The guidebook
28 must include information regarding the responsibilities of
29 users of the system and must set forth pertinent laws, rules,
30 and regulations including particular provisions and other
31 information intended to prevent trespass and damage to public

1 or private property. The guidebook must be prepared at minimal
2 cost to facilitate the broadest possible distribution and must
3 be available for distribution no later than October 1, 2003.

4 261.08 Repair, maintenance, and rehabilitation of
5 areas, trails, and lands.--

6 (1) The protection of public safety, the appropriate
7 use of lands in the system, and the conservation of the
8 environment, wildlife habitats, native wildlife, and native
9 flora and fauna in the system are of the highest priority in
10 the management of the system. Accordingly, the public land
11 managing agency shall avoid or minimize adverse impacts to the
12 environment, promptly repair and continuously maintain areas
13 and trails, anticipate and prevent accelerated erosion, and
14 rehabilitate lands to the extent damaged by off-highway
15 vehicle use in accordance with the management plans of the
16 public land managing agency.

17 (2) The public land managing agency shall monitor the
18 condition of soils and wildlife habitat in each area of the
19 system to determine whether there is compliance with
20 applicable environmental laws and regulations and shall take
21 appropriate action as necessary.

22 (3) The public land managing agency may regulate or
23 prohibit, when necessary, the use of off-highway vehicles on
24 the public lands of the state in order to prevent damage or
25 destruction to said lands.

26 261.09 Contracts and agreements.--The public land
27 managing agency may contract with private persons or entities
28 and enter into cooperative agreements with other public
29 agencies for the care and maintenance of lands in the system,
30 including contracts for law enforcement services with public
31 agencies having law enforcement powers.

1 261.10 Criteria for recreation areas and
2 trails.--Publicly owned or operated off-highway vehicle
3 recreation areas and trails shall be designated and maintained
4 for recreational travel by off-highway vehicles. These areas
5 and trails need not be generally suitable or maintained for
6 normal travel by conventional two-wheel-drive vehicles and
7 should not be designated as recreational footpaths. State
8 off-highway vehicle recreation areas and trails must be
9 selected and managed in accordance with this chapter.

10 261.11 Penalties.--No off-highway vehicle may be
11 operated upon the public roads, streets, or highways of this
12 state, except as otherwise permitted by the managing local,
13 state, or federal agency. A violation of this section is a
14 noncriminal traffic infraction, punishable as provided in
15 chapter 318.

16 261.12 Designated off-highway vehicle funds within the
17 Incidental Trust Fund of the Division of Forestry of the
18 Department of Agriculture and Consumer Services.--

19 (1) The designated off-highway vehicle funds of the
20 trust fund shall consist of deposits from the following
21 sources:

22 (a) Fees paid to the Department of Highway Safety and
23 Motor Vehicles for the titling of off-highway vehicles.

24 (b) Revenues and income from any other sources
25 required by law or as appropriated by the Legislature to be
26 deposited into the trust fund as designated off-highway
27 vehicle funds.

28 (c) Donations from private sources that are designated
29 as off-highway vehicle funds.

30 (d) Interest earned on designated off-highway vehicle
31 funds on deposit in the trust fund.

1 (2) Designated off-highway vehicle funds in the trust
2 fund shall be available for recommended allocation by the
3 Off-Highway Vehicle Recreation Advisory Committee and the
4 Department of Agriculture and Consumer Services and upon
5 annual appropriation by the Legislature, exclusively for the
6 following:

7 (a) Implementation of the Off-Highway Vehicle
8 Recreation Program by the Department of Agriculture and
9 Consumer Services, which includes personnel and other related
10 expenses; administrative and operating expenses; expenses
11 related to safety, training, rider education programs,
12 management, maintenance, and rehabilitation of lands in the
13 Off-Highway Vehicle Recreation Program's system of lands and
14 trails; and, if funds are available, acquisition of lands to
15 be included in the system and the management, maintenance, and
16 rehabilitation of such lands.

17 (b) Approved grants to governmental agencies or
18 entities or nongovernmental entities that wish to provide or
19 improve off-highway vehicle recreation areas or trails for
20 public use on public lands, provide environmental protection
21 and restoration to affected natural areas in the system,
22 provide enforcement of applicable regulations related to the
23 system and off-highway vehicle activities, or provide
24 education in the operation of off-highway vehicles.

25 (c) Matching funds to be used to match grant funds
26 available from other sources.

27 (3) Notwithstanding s. 216.301 and pursuant to s.
28 216.351, any balance of designated off-highway vehicle funds
29 in the trust fund at the end of any fiscal year shall remain
30 therein and shall be available for the purposes set out in
31 this section and as otherwise provided by law.

1 Section 54. Section 316.2074, Florida Statutes, is
2 amended to read:

3 316.2074 All-terrain vehicles.--

4 (1) It is the intent of the Legislature, through the
5 adoption of this section to provide safety protection for
6 minors while operating an all-terrain vehicle in this state.

7 (2) As used in this section, the term "all-terrain
8 vehicle" means any motorized off-highway vehicle 50 inches
9 ~~(1270 mm)~~ or less in width, having a dry weight of 900 ~~600~~
10 pounds ~~(273 kg)~~ or less, designed to travel ~~traveling~~ on three
11 or more low-pressure tires, ~~designed for operator use only~~
12 ~~with no passengers~~, having a seat ~~or saddle~~ designed to be
13 straddled by the operator, ~~and having~~ handlebars for steering
14 control, and intended for use by a single operator with no
15 passenger.

16 (3) No person under 16 years of age shall operate,
17 ride, or be otherwise propelled on an all-terrain vehicle
18 unless the person wears a safety helmet meeting United States
19 Department of Transportation standards and eye protection.

20 (4) If a crash results in the death of any person or
21 in the injury of any person which results in treatment of the
22 person by a physician, the operator of each all-terrain
23 vehicle involved in the crash shall give notice of the crash
24 pursuant to s. 316.066.

25 (5) Except as provided in this section, an all-terrain
26 vehicle may not be operated upon the public roads, streets, or
27 highways of this state, except as otherwise permitted by the
28 managing state or federal agency.

29 ~~(6)(5)~~ An all-terrain vehicle having four wheels may
30 be used by police officers on public beaches designated as
31 public roadways for the purpose of enforcing the traffic laws

1 of the state. All-terrain vehicles may also be used by the
2 police to travel on public roadways within 5 miles of beach
3 access only when getting to and from the beach.

4 (7) An all-terrain vehicle having four wheels may be
5 used by law enforcement officers on public roads within public
6 lands while in the course and scope of their duties.

7 (8)(6) A violation of this section is a noncriminal
8 traffic infraction, punishable as a nonmoving violation as
9 provided in chapter 318.

10 Section 55. Short title.--Sections 55 through 67 of
11 this act may be cited as the "Florida Off-Highway Vehicle
12 Titling Act."

13 Section 56. Legislative intent.--It is the intent of
14 the Legislature that all off-highway vehicles purchased after
15 the effective date of this act and all off-highway vehicles
16 operated on public lands be titled and issued a certificate of
17 title to allow for easy determination of ownership.

18 Section 57. Definitions.--As used in sections 55
19 through 67, the term:

20 (1) "ATV" means any motorized off-highway or
21 all-terrain vehicle 50 inches or less in width, having a dry
22 weight of 900 pounds or less, designed to travel on three or
23 more low-pressure tires, having a seat designed to be
24 straddled by the operator and handlebars for steering control,
25 and intended for use by a single operator and with no
26 passenger.

27 (2) "Dealer" means any person authorized by the
28 Department of Revenue to buy, sell, resell, or otherwise
29 distribute off-highway vehicles. Such person must have a valid
30 sales tax certificate of registration issued by the Department
31 of Revenue and a valid commercial or occupational license

1 required by any county, municipality, or political subdivision
2 of the state in which the person operates.

3 (3) "Department" means the Department of Highway
4 Safety and Motor Vehicles.

5 (4) "Florida resident" means a person who has had a
6 principal place of domicile in this state for a period of more
7 than 6 consecutive months, who has registered to vote in this
8 state, who has made a statement of domicile pursuant to
9 section 222.17, Florida Statutes, or who has filed for
10 homestead tax exemption on property in this state.

11 (5) "OHM" or "off-highway motorcycle" means any motor
12 vehicle used off the roads or highways of this state that has
13 a seat or saddle for the use of the rider and is designed to
14 travel with not more than two wheels in contact with the
15 ground, but excludes a tractor or a moped.

16 (6) "Off-highway vehicle" means any ATV or OHM that is
17 used off the roads or highways of this state for recreational
18 purposes and that is not registered and licensed for highway
19 use pursuant to chapter 320, Florida Statutes.

20 (7) "Owner" means a person, other than a lienholder,
21 having the property in or title to an off-highway vehicle,
22 including a person entitled to the use or possession of an
23 off-highway vehicle subject to an interest held by another
24 person, reserved or created by agreement and securing payment
25 of performance of an obligation, but the term excludes a
26 lessee under a lease not intended as security.

27 (8) "Public lands" means lands within the state that
28 are available for public use and that are owned, operated, or
29 managed by a federal, state, county, or municipal governmental
30 entity.

31

1 Section 58. Administration of off-highway vehicle
2 titling laws; records.--

3 (1) The administration of off-highway vehicle titling
4 laws in sections 55 through 67 is under the Department of
5 Highway Safety and Motor Vehicles, which shall provide for the
6 issuing, handling, and recording of all off-highway vehicle
7 titling applications and certificates, including the receipt
8 and accounting of off-highway vehicle titling fees.

9 (2) The department shall keep records and perform
10 other clerical duties pertaining to off-highway vehicle
11 titling as required.

12 Section 59. Rules, forms, and notices.--

13 (1) The department may adopt rules pursuant to
14 sections 120.536(1) and 120.54, Florida Statutes, which
15 pertain to off-highway vehicle titling, in order to implement
16 the provisions of sections 55 through 67 conferring duties
17 upon it.

18 (2) The department shall prescribe and provide
19 suitable forms for applications and other notices and forms
20 necessary to administer the provisions of sections 55 through
21 67.

22 Section 60. Certificate of title required.--

23 (1) Any off-highway vehicle that is purchased by a
24 resident of this state after the effective date of this act or
25 that is owned by a resident and is operated on the public
26 lands of this state must be titled pursuant to sections 55
27 through 67.

28 (2) A person may not sell, assign, or transfer an
29 off-highway vehicle titled by the state without delivering to
30 the purchaser or transferee a valid certificate of title with
31 an assignment on it showing the transfer of title to the

1 purchaser or transferee. A person may not purchase or
 2 otherwise acquire an off-highway vehicle required to be titled
 3 without obtaining a certificate of title for the vehicle in
 4 his or her name. The purchaser or transferee shall, within 30
 5 days after a change in off-highway vehicle ownership, file an
 6 application for a title transfer with the county tax
 7 collector. An additional \$10 fee shall be charged against a
 8 purchaser or transferee who files a title transfer application
 9 after the 30-day period. The county tax collector may retain
 10 \$5 of the additional amount.

11 (3) A certificate of title is prima facie evidence of
 12 the ownership of the off-highway vehicle and is good for the
 13 life of the off-highway vehicle so long as the certificate is
 14 owned or held by the legal holder. If a titled off-highway
 15 vehicle is destroyed or abandoned, the owner, with the consent
 16 of any recorded lienholders, shall, within 30 days after the
 17 destruction or abandonment, surrender to the department all
 18 title documents for cancellation.

19 (4) The department shall provide labeled places on the
 20 title where the seller's price shall be indicated when an
 21 off-highway vehicle is sold and where a selling dealer shall
 22 record his or her valid sales tax certificate of registration
 23 number.

24 (5)(a) There shall be a service charge of \$4.25 for
 25 each application that is handled in connection with the
 26 issuance, duplication, or transfer of any certificate of
 27 title. There shall be a service charge of \$1.25 for each
 28 application that is handled in connection with the recording
 29 or notation of a lien on an off-highway vehicle that is not in
 30 connection with the purchase of such vehicle.

31

1 (b) The service charges specified in paragraph (a)
2 shall be collected by the department on any application
3 handled directly from its office. Otherwise, these service
4 charges shall be collected and retained by the tax collector
5 who handles the application.

6 (c) In addition to the fees provided in paragraph (a),
7 any tax collector may impose an additional service charge of
8 not more than 50 cents on any transaction specified in
9 paragraph (a) when such transaction occurs at any tax
10 collector's branch office.

11 Section 61. Application for and issuance of
12 certificate of title.--

13 (1) The owner of an off-highway vehicle that is
14 required to be titled must apply to the county tax collector
15 for a certificate of title. The application must include the
16 true name of the owner, the residence or business address of
17 the owner, and a complete description of the off-highway
18 vehicle. The application must be signed by the owner and must
19 be accompanied by a fee of \$29.

20 (2) The owner must establish proof of ownership by
21 submitting with the application an executed bill of sale, a
22 manufacturer's statement of origin, an affidavit of ownership
23 for off-highway vehicles purchased before the effective date
24 of this act, or any other document acceptable to the
25 department.

26 (3) To apply for a certificate of title upon transfer
27 of ownership of an off-highway vehicle, the new owner must
28 surrender to the department the last title document issued for
29 that vehicle. The document must be properly executed. Proper
30 execution includes the previous owner's signature and
31 certification that the off-highway vehicle to be transferred

1 is debt-free or is subject to a lien. If a lien exists, the
2 previous owner must furnish the new owner, on forms supplied
3 by the department, the names and addresses of all lienholders
4 and the dates of all liens, with a statement from each
5 lienholder that the lienholder has knowledge of and consents
6 to the transfer of title to the new owner.

7 (4) An application for an initial certificate of title
8 or a title transfer must include payment of the applicable
9 state sales tax or proof of payment of such tax, except for
10 off-highway vehicles purchased or transferred before the
11 effective date of this act.

12 (5) If the owner submits a complete application and
13 complies with all other requirements of this section, the
14 department shall issue a certificate of title that states that
15 the title is for an off-highway vehicle that is not suitable
16 for highway use. After October 1, 2003, the department shall
17 also issue a copy of the guidebook prepared by the Department
18 of Agriculture and Consumer Services pursuant to section
19 261.07, Florida Statutes.

20 Section 62. Duplicate certificate of title.--

21 (1) The department may issue a duplicate certificate
22 of title upon application by the person entitled to hold such
23 a certificate if the department is satisfied that the original
24 certificate has been lost, destroyed, or mutilated. A fee of
25 \$15 shall be charged for issuing a duplicate certificate.

26 (2) In addition to the fee imposed by subsection (1),
27 a fee of \$7 shall be charged for expedited service in issuing
28 a duplicate certificate of title. Application for such
29 expedited service may be made by mail or in person. The
30 department shall issue each certificate of title applied for
31 under this subsection within 5 working days after receipt of a

1 proper application or shall refund the additional \$7 fee upon
2 written request by the applicant.

3 (3) If, following the issuance of an original,
4 duplicate, or corrected certificate of title by the
5 department, the certificate is lost in transit and is not
6 delivered to the addressee, the owner of the off-highway
7 vehicle or the holder of a lien thereon may, within 180 days
8 after the date of issuance of the certificate, apply to the
9 department for reissuance of the certificate. An additional
10 fee may not be charged for reissuance under this subsection.

11 (4) The department shall implement a system to verify
12 that the application is signed by a person authorized to
13 receive a duplicate certificate of title under this section if
14 the address shown on the application is different from the
15 address shown for the applicant on the records of the
16 department.

17 Section 63. Manufacturer's statement of origin to be
18 furnished.--

19 (1) Any person selling a new off-highway vehicle in
20 this state must furnish a manufacturer's statement of origin
21 to the purchaser. The statement, which must be in English or
22 accompanied by an English translation if the vehicle was
23 purchased outside the United States, must be signed and dated
24 by an authorized representative of the manufacturer, indicate
25 the complete name and address of the purchaser, include a
26 complete description of the vehicle, and contain as many
27 assignments as necessary to show title in the name of the
28 purchaser.

29 (2) It is unlawful for an off-highway vehicle
30 manufacturer, manufacturer's representative, or dealer to
31 issue a manufacturer's certificate of origin describing an

1 off-highway vehicle with the knowledge that the description is
2 false or that the off-highway vehicle described does not
3 exist. It is unlawful for any person to obtain or attempt to
4 obtain a certificate of origin with the knowledge that the
5 description is false or that the off-highway vehicle does not
6 exist. Any person who violates this subsection commits a
7 felony of the third degree, punishable as provided in section
8 775.082, section 775.083, or section 775.084, Florida
9 Statutes.

10 Section 64. Disposition of fees.--The department shall
11 deposit all funds received under sections 55 through 67, less
12 administrative costs of \$2 per title transaction, into the
13 Incidental Trust Fund of the Division of Forestry of the
14 Department of Agriculture and Consumer Services.

15 Section 65. Refusal to issue and authority to cancel a
16 certificate of title.--

17 (1) If the department finds that an applicant for an
18 off-highway vehicle certificate of title has given a false
19 statement or false or incomplete information in applying for
20 the certificate or has otherwise failed to comply with the
21 applicable provisions pertaining to the application for a
22 certificate, it may refuse to issue the certificate.

23 (2) If the department finds that an owner or dealer
24 named in an off-highway vehicle certificate of title has given
25 a false statement or false or incomplete information in
26 applying for the certificate or has otherwise failed to comply
27 with the applicable provisions pertaining to the application
28 for a certificate, it may cancel the certificate.

29 (3) The department may cancel any pending application
30 or any certificate if it finds that any title fee or sales tax
31 pertaining to such application or certificate has not been

1 paid, unless the fee or tax is paid within a reasonable time
2 after the department has given notice.

3 Section 66. Crimes relating to certificates of title;
4 penalties.--

5 (1) It is unlawful for any person to procure or
6 attempt to procure a certificate of title or duplicate
7 certificate of title to an off-highway vehicle, or to pass or
8 attempt to pass a certificate of title or duplicate
9 certificate of title to an off-highway vehicle or any
10 assignment thereof, if such person knows or has reason to
11 believe that the vehicle has been stolen. Any person who
12 violates this subsection commits a felony of the third degree,
13 punishable as provided in section 775.082, section 775.083, or
14 section 775.084, Florida Statutes.

15 (2) It is unlawful for any person, knowingly and with
16 intent to defraud, to have in his or her possession, sell,
17 offer to sell, counterfeit, or supply a blank, forged,
18 fictitious, counterfeit, stolen, or fraudulently or unlawfully
19 obtained certificate of title, duplicate certificate of title,
20 bill of sale, or other indicia of ownership of an off-highway
21 vehicle or to conspire to do any of the foregoing. Any person
22 who violates this subsection commits a felony of the third
23 degree, punishable as provided in section 775.082, section
24 775.083, or section 775.084, Florida Statutes.

25 (3) It is unlawful to:

26 (a) Alter or forge any certificate of title to an
27 off-highway vehicle or any assignment thereof or any
28 cancellation of any lien on an off-highway vehicle.

29 (b) Retain or use such certificate, assignment, or
30 cancellation knowing that it has been altered or forged.

31

1 (c) Use a false or fictitious name, give a false or
2 fictitious address, or make any false statement in any
3 application or affidavit required by sections 55 through 67 or
4 in a bill of sale or sworn statement of ownership or otherwise
5 commit a fraud in any application.

6 (d) Knowingly obtain goods, services, credit, or money
7 by means of an invalid, duplicate, fictitious, forged,
8 counterfeit, stolen, or unlawfully obtained certificate of
9 title, bill of sale, or other indicia of ownership of an
10 off-highway vehicle.

11 (e) Knowingly obtain goods, services, credit, or money
12 by means of a certificate of title to an off-highway vehicle
13 which certificate is required by law to be surrendered to the
14 department.

15
16 Any person who violates this subsection commits a felony of
17 the third degree, punishable as provided in section 775.082,
18 section 775.083, or section 775.084, Florida Statutes. A
19 violation of this subsection with respect to any off-highway
20 vehicle makes such off-highway vehicle contraband which may be
21 seized by a law enforcement agency and forfeited under
22 sections 932.701-932.704, Florida Statutes.

23 Section 67. Nonmoving traffic violations.--Any person
24 who fails to comply with any provision of sections 55 through
25 66 for which a penalty is not otherwise provided commits a
26 nonmoving traffic violation, punishable as provided in section
27 318.18, Florida Statutes.

28 Section 68. Section 375.313, Florida Statutes, is
29 amended to read:

30 375.313 Commission powers and duties.--The commission
31 shall:

1 (1) Regulate or prohibit, when necessary, the use of
2 motor vehicles on the public lands of the state in order to
3 prevent damage or destruction to said lands.

4 ~~(2) Collect any registration fees imposed by s.~~
5 ~~375.315 and deposit said fees in the State Game Trust Fund.~~
6 ~~The revenue resulting from said registration shall be expended~~
7 ~~for the funding and administration of ss. 375.311-375.315.~~

8 (2)~~(3)~~ Adopt and promulgate such reasonable rules as
9 deemed necessary to administer the provisions of ss.
10 375.311-375.315, except that, before any such rules are
11 adopted, the commission shall obtain the consent and
12 agreement, in writing, of the owner, in the case of privately
13 owned lands, or the owner or primary custodian, in the case of
14 publicly owned lands.

15 Section 69. Section 375.315, Florida Statutes, is
16 repealed.

17 Section 70. Paragraph (a) of subsection (6) of section
18 163.3177, Florida Statutes, is amended to read:

19 163.3177 Required and optional elements of
20 comprehensive plan; studies and surveys.--

21 (6) In addition to the requirements of subsections
22 (1)-(5), the comprehensive plan shall include the following
23 elements:

24 (a) A future land use plan element designating
25 proposed future general distribution, location, and extent of
26 the uses of land for residential uses, commercial uses,
27 industry, agriculture, recreation, conservation, education,
28 public buildings and grounds, other public facilities, and
29 other categories of the public and private uses of land. Each
30 ~~The~~ future land use category plan shall be defined in terms of
31 uses included, and shall include standards to be followed in

1 the control and distribution of population densities and
2 building and structure intensities. The proposed distribution,
3 location, and extent of the various categories of land use
4 shall be shown on a land use map or map series which shall be
5 supplemented by goals, policies, and measurable objectives.
6 ~~Each land use category shall be defined in terms of the types~~
7 ~~of uses included and specific standards for the density or~~
8 ~~intensity of use.~~The future land use plan shall be based upon
9 surveys, studies, and data regarding the area, including the
10 amount of land required to accommodate anticipated growth; the
11 projected population of the area; the character of undeveloped
12 land; the availability of public services; the need for
13 redevelopment, including the renewal of blighted areas and the
14 elimination of nonconforming uses which are inconsistent with
15 the character of the community; and, in rural communities, the
16 need for job creation, capital investment, and economic
17 development that will strengthen and diversify the community's
18 economy. The future land use plan may designate areas for
19 future planned development use involving combinations of types
20 of uses for which special regulations may be necessary to
21 ensure development in accord with the principles and standards
22 of the comprehensive plan and this act. In addition, for rural
23 communities, the amount of land designated for future planned
24 industrial use shall be based upon surveys and studies that
25 reflect the need for job creation, capital investment, and the
26 necessity to strengthen and diversify the local economies, and
27 shall not be limited solely by the projected population of the
28 rural community. The future land use plan of a county may also
29 designate areas for possible future municipal incorporation.
30 The land use maps or map series shall generally identify and
31 depict historic district boundaries and shall designate

1 historically significant properties meriting protection. The
2 future land use element must clearly identify the land use
3 categories in which public schools are an allowable use. When
4 delineating the land use categories in which public schools
5 are an allowable use, a local government shall include in the
6 categories sufficient land proximate to residential
7 development to meet the projected needs for schools in
8 coordination with public school boards and may establish
9 differing criteria for schools of different type or size.
10 Each local government shall include lands contiguous to
11 existing school sites, to the maximum extent possible, within
12 the land use categories in which public schools are an
13 allowable use. All comprehensive plans must comply with the
14 school siting requirements of this paragraph no later than
15 October 1, 1999. The failure by a local government to comply
16 with these school siting requirements by October 1, 1999, will
17 result in the prohibition of the local government's ability to
18 amend the local comprehensive plan, except for plan amendments
19 described in s. 163.3187(1)(b), until the school siting
20 requirements are met. An amendment proposed by a local
21 government for purposes of identifying the land use categories
22 in which public schools are an allowable use is exempt from
23 the limitation on the frequency of plan amendments contained
24 in s. 163.3187. The future land use element shall include
25 criteria which encourage the location of schools proximate to
26 urban residential areas to the extent possible and shall
27 require that the local government seek to collocate public
28 facilities, such as parks, libraries, and community centers,
29 with schools to the extent possible. For schools serving
30 predominantly rural counties, defined as a county with a
31 population of 100,000 or fewer, an agricultural land use

1 category shall be eligible for the location of public school
2 facilities if the local comprehensive plan contains school
3 siting criteria and the location is consistent with such
4 criteria.

5 Section 71. There is appropriated to the Department of
6 Agriculture and Consumer Services from the General Inspection
7 Trust Fund of the Division of Agricultural Environmental
8 Services of the Department of Agriculture and Consumer
9 Services, \$10,000 to carry out the provisions of this act
10 relating to the Pest Control Enforcement Advisory Council.

11 Section 72. Paragraph (g) of subsection (7) of section
12 163.01, Florida Statutes, is amended to read:

13 163.01 Florida Interlocal Cooperation Act of 1969.--
14 (7)

15 (g)1. Notwithstanding any other provisions of this
16 section, any separate legal entity created under this section,
17 the membership of which is limited to municipalities and
18 counties of the state, may acquire, own, construct, improve,
19 operate, and manage public facilities, or finance facilities
20 on behalf of any person, relating to a governmental function
21 or purpose, including, but not limited to, wastewater
22 facilities, water or alternative water supply facilities, and
23 water reuse facilities, which may serve populations within or
24 outside of the members of the entity. Notwithstanding s.
25 367.171(7), any separate legal entity created under this
26 paragraph is not subject to commission jurisdiction and may
27 not provide utility services within the service area of an
28 existing utility system unless it has received the consent of
29 the utility. The entity may finance or refinance the
30 acquisition, construction, expansion, and improvement of such
31 facilities relating to a governmental function or purpose ~~the~~

1 ~~public facility~~ through the issuance of its bonds, notes, or
2 other obligations under this section or as otherwise
3 authorized by law. The entity has all the powers provided by
4 the interlocal agreement under which it is created or which
5 are necessary to finance, own, operate, or manage the public
6 facility, including, without limitation, the power to
7 establish rates, charges, and fees for products or services
8 provided by it, the power to levy special assessments, the
9 power to sell or finance all or a portion of such its
10 facility, and the power to contract with a public or private
11 entity to manage and operate such its facilities or to provide
12 or receive facilities, services, or products. Except as may be
13 limited by the interlocal agreement under which the entity is
14 created, all of the privileges, benefits, powers, and terms of
15 s. 125.01, relating to counties, and s. 166.021, relating to
16 municipalities, are fully applicable to the entity. However,
17 neither the entity nor any of its members on behalf of the
18 entity may exercise the power of eminent domain over the
19 facilities or property of any existing water or wastewater
20 plant utility system, nor may the entity acquire title to any
21 water or wastewater plant utility facilities, other
22 facilities, or property which was acquired by the use of
23 eminent domain after the effective date of this act. Bonds,
24 notes, and other obligations issued by the entity are issued
25 on behalf of the public agencies that are members of the
26 entity.

27 2. Any entity created under this section may also
28 issue bond anticipation notes in connection with the
29 authorization, issuance, and sale of bonds. The bonds may be
30 issued as serial bonds or as term bonds or both. Any entity
31 may issue capital appreciation bonds or variable rate bonds.

1 Any bonds, notes, or other obligations must be authorized by
2 resolution of the governing body of the entity and bear the
3 date or dates; mature at the time or times, not exceeding 40
4 years from their respective dates; bear interest at the rate
5 or rates; be payable at the time or times; be in the
6 denomination; be in the form; carry the registration
7 privileges; be executed in the manner; be payable from the
8 sources and in the medium or payment and at the place; and be
9 subject to the terms of redemption, including redemption prior
10 to maturity, as the resolution may provide. If any officer
11 whose signature, or a facsimile of whose signature, appears on
12 any bonds, notes, or other obligations ceases to be an officer
13 before the delivery of the bonds, notes, or other obligations,
14 the signature or facsimile is valid and sufficient for all
15 purposes as if he or she had remained in office until the
16 delivery. The bonds, notes, or other obligations may be sold
17 at public or private sale for such price as the governing body
18 of the entity shall determine. Pending preparation of the
19 definitive bonds, the entity may issue interim certificates,
20 which shall be exchanged for the definitive bonds. The bonds
21 may be secured by a form of credit enhancement, if any, as the
22 entity deems appropriate. The bonds may be secured by an
23 indenture of trust or trust agreement. In addition, the
24 governing body of the legal entity may delegate, to an
25 officer, official, or agent of the legal entity as the
26 governing body of the legal entity may select, the power to
27 determine the time; manner of sale, public or private;
28 maturities; rate of interest, which may be fixed or may vary
29 at the time and in accordance with a specified formula or
30 method of determination; and other terms and conditions as may
31 be deemed appropriate by the officer, official, or agent so

1 designated by the governing body of the legal entity. However,
2 the amount and maturity of the bonds, notes, or other
3 obligations and the interest rate of the bonds, notes, or
4 other obligations must be within the limits prescribed by the
5 governing body of the legal entity and its resolution
6 delegating to an officer, official, or agent the power to
7 authorize the issuance and sale of the bonds, notes, or other
8 obligations.

9 3. Bonds, notes, or other obligations issued under
10 subparagraph 1. may be validated as provided in chapter 75.
11 The complaint in any action to validate the bonds, notes, or
12 other obligations must be filed only in the Circuit Court for
13 Leon County. The notice required to be published by s. 75.06
14 must be published in Leon County and in each county that is a
15 member of the entity issuing the bonds, notes, or other
16 obligations, or in which a member of the entity is located,
17 and the complaint and order of the circuit court must be
18 served only on the State Attorney of the Second Judicial
19 Circuit and on the state attorney of each circuit in each
20 county that is a member of the entity issuing the bonds,
21 notes, or other obligations or in which a member of the entity
22 is located. Section 75.04(2) does not apply to a complaint for
23 validation brought by the legal entity.

24 4. The accomplishment of the authorized purposes of a
25 legal entity created under this paragraph is in all respects
26 for the benefit of the people of the state, for the increase
27 of their commerce and prosperity, and for the improvement of
28 their health and living conditions. Since the legal entity
29 will perform essential governmental functions in accomplishing
30 its purposes, the legal entity is not required to pay any
31 taxes or assessments of any kind whatsoever upon any property

1 acquired or used by it for such purposes or upon any revenues
2 at any time received by it. The bonds, notes, and other
3 obligations of an entity, their transfer and the income
4 therefrom, including any profits made on the sale thereof, are
5 at all times free from taxation of any kind by the state or by
6 any political subdivision or other agency or instrumentality
7 thereof. The exemption granted in this subparagraph is not
8 applicable to any tax imposed by chapter 220 on interest,
9 income, or profits on debt obligations owned by corporations.

10 Section 73. Except as otherwise expressly provided in
11 this act, this act shall take effect July 1, 2002.

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