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1 A bill to be entitled

2 An act relating to worker safety with respect to
3 agricultural pesticides; creating s. 487.2011, F.S.;
4 providing a short title; creating s. 487.2021, F.S.;
5 declaring legislative intent; creating s. 487.2031, F.S.;
6 defining terms; creating s. 487.2041, F.S.; providing for
7 enforcement of federal worker protection regulations;
8 creating s. 487.2051, F.S.; requiring agricultural
9 employers to make agricultural pesticide information
10 available to workers, designated representatives, and
11 medical personnel; creating s. 487.2061, F.S.; prohibiting
12 agricultural employers from failing to provide required
13 information and from taking retaliatory action against
14 workers for exercising their rights; creating s. 487.2071,
15 F.S.; providing penalties; providing for relief against
16 retaliation; providing for monitoring complaints of
17 retaliation; providing for a report; providing an
18 effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Section 487.2011, Florida Statutes, is created
23 to read:

24 487.2011 Short title.--This part may be cited as the
25 "Florida Agricultural Worker Safety Act" and shall be
26 administered by the Department of Agriculture and Consumer
27 Services.

28 Section 2. Section 487.2021, Florida Statutes, is created
29 to read:



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30 487.2021 Legislative intent.--It is the intent of the
31 Legislature, by this part, to ensure that agricultural workers
32 employed in the state receive protection from agricultural
33 pesticides. The Legislature intends to assure that agricultural
34 workers be given information concerning agricultural pesticides.

35 Section 3. Section 487.2031, Florida Statutes, is created
36 to read:

37 487.2031 Definitions.--For purposes of this part, the
38 term:

39 (1) "Agricultural employer" means any person who hires or
40 contracts for the services of workers, for any type of
41 compensation, to perform activities related to the production of
42 agricultural plants, or any person who is an owner of or is
43 responsible for the management or condition of an agricultural
44 establishment that uses such workers.

45 (2) "Agricultural establishment" means any farm, forest,
46 nursery, or greenhouse.

47 (3) "Agricultural plant" means any plant grown or
48 maintained for commercial or research purposes and includes, but
49 is not limited to, food, feed, and fiber plants, trees,
50 turfgrass, flowers, shrubs, ornamentals, and seedlings.

51 (4) "Department" means the Department of Agriculture and
52 Consumer Services or its authorized representative.

53 (5) "Designated representative" means any person or
54 organization to whom a worker gives written authorization to
55 exercise the right to request the agricultural pesticide
56 information pursuant to this part.

57 (6) "Fact sheet" means any state or federally approved
58 fact sheet.



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59 (7) "Material safety data sheet" means written or printed
60 material concerning an agricultural pesticide which sets forth
61 the following information:

62 (a) The chemical name and the common name of the
63 agricultural pesticide.

64 (b) The hazards or other risks in the use of the
65 agricultural pesticide, including:

66 1. The potential for fire, explosions, corrosivity, and
67 reactivity.

68 2. The known acute health effects and chronic health
69 effects of risks from exposure to the agricultural pesticide,
70 including those medical conditions which are generally
71 recognized as being aggravated by exposure to the agricultural
72 pesticide.

73 3. The primary routes of entry and symptoms of
74 overexposure.

75 (c) The proper precautions, handling practices, necessary
76 personal protective equipment, and other safety precautions in
77 the use of or exposure to the agricultural pesticide, including
78 appropriate emergency treatment in case of overexposure.

79 (d) The emergency procedures for spills, fire, disposal,
80 and first aid.

81 (e) A description of the known specific potential health
82 risks posed by the agricultural pesticide, which description is
83 written in lay terms and is intended to alert any person who
84 reads the information.

85 (f) The year and the month, if available, that the
86 information was compiled and the name, address, and emergency
87 telephone number of the manufacturer responsible for preparing
88 the information.



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89 (8) "Retaliation" means actions, such as dismissal,
90 demotion, harassment, blacklisting with other employers,
91 reducing pay or work hours, or taking away company housing, by
92 any agricultural employer against any worker who exercises any
93 right under the United States Environmental Protection Agency
94 Worker Protection Standard, 40 C.F.R. s. 170.7(b) (August 21,
95 1992) or this part.

96 (9) "Trainer" means any person who qualifies to train
97 workers under the pesticide safety training requirements of the
98 United States Environmental Protection Agency Worker Protection
99 Standard, 40 C.F.R. s. 170.130 (August 21, 1992).

100 (10) "Worker" means any person, including a farmworker or
101 a self-employed person, who is employed for any type of
102 compensation and who is performing activities relating to the
103 production of agricultural plants on an agricultural
104 establishment. The term "worker" does not include any person
105 employed by a commercial pesticide handling establishment to
106 perform tasks as a crop advisor.

107 Section 4. Section 487.2041, Florida Statutes, is created
108 to read:

109 487.2041 Enforcement of federal worker protection
110 regulations.--The department shall adopt by rule the regulations
111 established by the United States Environmental Protection Agency
112 Labeling Requirement for Pesticides and Devices, 40 C.F.R. part
113 156, and the Worker Protection Standard, 40 C.F.R. part 170,
114 adopted August 21, 1992. If the provisions of this part are
115 preempted in part by federal law, those provisions not preempted
116 shall apply.

117 Section 5. Section 487.2051, Florida Statutes, is created
118 to read:



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119 487.2051 Availability of agricultural pesticide
120 information to workers and physicians.--

121 (1)(a) The agricultural employer shall make available
122 agricultural pesticide information concerning any agricultural
123 pesticide to any worker who enters an agricultural pesticide
124 treated area on an agricultural establishment where, within the
125 last 30 days, an agricultural pesticide has been applied or a
126 restricted-entry interval has been in effect or to any worker
127 who may be exposed to the agricultural pesticide during normal
128 conditions of use or in a foreseeable emergency.

129 (b) The agricultural pesticide information shall be in the
130 form of a material safety data sheet or a state or federally
131 approved fact sheet. The agricultural employer shall provide a
132 written copy of the information specified in this section within
133 2 working days of a request for the information by a worker, a
134 designated representative of the worker, or medical personnel
135 treating the worker.

136 (c) The distributor, manufacturer, or importer of
137 agricultural pesticides shall prepare and provide each direct
138 purchaser of agricultural pesticides with a material safety data
139 sheet. If the material safety data sheet or fact sheet for the
140 agricultural pesticide is not available at the time the
141 agricultural pesticide is purchased, the agricultural employer
142 shall take appropriate and timely steps to obtain the material
143 safety data sheet or fact sheet from the distributor, the
144 manufacturer, the department, a federal agency, or another
145 distribution source.

146 (2) The department shall design and make available to the
147 trainer a one-page general agricultural pesticide safety sheet,
148 hereafter referred to as "safety sheet." This safety sheet must



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149 be in a language understood by the worker and must include, but
150 is not limited to, illustrated instructions on prevention of
151 agricultural pesticide exposure and toll-free numbers to the
152 Florida Poison Control Centers so that workers may call for
153 additional agricultural pesticide exposure information. The
154 trainer shall provide to the worker the safety sheet at the time
155 of training pursuant to the United States Environmental
156 Protection Agency Worker Protection Standard, 40 C.F.R. s.
157 170.130 (August 21, 1992).

158 Section 6. Section 487.2061, Florida Statutes, is created
159 to read:

160 487.2061 Prohibited acts.--It is unlawful for any
161 agricultural employer to:

162 (1) Fail to provide agricultural pesticide information as
163 provided for in this part.

164 (2) Take any retaliatory action against any worker for
165 exercising any right under the provisions of the United States
166 Environmental Protection Agency Worker Protection Standard, 40
167 C.F.R. s. 170.7(b) (August 21, 1992), or this part.

168 Section 7. Section 487.2071, Florida Statutes, is created
169 to read:

170 487.2071 Penalties against agricultural employer
171 violators; worker relief; monitoring complaints of
172 retaliation.--

173 (1) Penalties set forth in part I of this chapter shall be
174 applied to any agricultural employer who violates any provision
175 in this part. Agricultural employers who violate the provisions
176 of this part also shall be subject to the federal penalties in
177 the United States Environmental Protection Agency Worker
178 Protection Standard, 40 C.F.R. s. 170.9(b).



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179 (2)(a) Any worker who has been retaliated against by any
180 agricultural employer for exercising any right under the United
181 States Environmental Protection Agency Worker Protection
182 Standard, 40 C.F.R. s. 170.7(b) (August 21, 1992), or this part
183 may seek relief under ss. 448.102-448.104.

184 (b) Any worker who has been retaliated against by any
185 agricultural employer for exercising any right under the United
186 States Environmental Protection Agency Worker Protection
187 Standard, 40 C.F.R. s. 170.7(b) (August 21, 1992), or this part
188 and seeks relief pursuant to this section, or the worker's
189 designated representative, shall file a complaint with the
190 department of such retaliation.

191 (c) In any action brought pursuant to this section where
192 the retaliatory personnel action is predicated upon the
193 disclosure of an illegal activity, policy, or practice to an
194 appropriate governmental agency, the worker shall not be
195 required to show that the disclosure to the governmental agency
196 was under oath or in writing or that the notification to the
197 employer concerning the illegal activity, policy, or practice
198 was in writing as provided in s. 448.102(1).

199 (3) The department shall monitor all complaints of
200 retaliation which it receives and report its findings to the
201 President of the Senate and the Speaker of the House of
202 Representatives on October 1, 2006. The report shall include the
203 number of such complaints received, the circumstances
204 surrounding the complaints, and the action taken concerning the
205 complaints.

206 Section 8. The Division of Statutory Revision is requested
207 to designate sections 487.011-487.175, Florida Statutes, as part
208 I of that chapter and sections 487.2011-487.2071, Florida



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209 Statutes, as created by this act, as part II of that chapter.

210 The division is further requested to name part II the "Florida
211 Agricultural Worker Safety Act."

212 Section 9. This act shall take effect July 1, 2003.