

By Senator Hill

1-758-03

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

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

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 25 Section 1. Section 487.2011, Florida Statutes, is
 26 created to read:
 27 487.2011 Short title.--This part may be cited as the
 28 "Florida Agricultural Worker Safety Act" and shall be
 29 administered by the Department of Agriculture and Consumer
 30 Services.

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

3 487.2021 Legislative intent.--It is the intent of the
4 Legislature, by this part, to ensure that agricultural workers
5 employed in the state receive protection from agricultural
6 pesticides. The Legislature intends to assure that
7 agricultural workers be given information concerning
8 agricultural pesticides.

9 Section 3. Section 487.2031, Florida Statutes, is
10 created to read:

11 487.2031 Definitions.--For purposes of this part, the
12 term:

13 (1) "Agricultural employer" means any person who hires
14 or contracts for the services of workers, for any type of
15 compensation, to perform activities related to the production
16 of agricultural plants, or any person who is an owner of or is
17 responsible for the management or condition of an agricultural
18 establishment that uses such workers.

19 (2) "Agricultural establishment" means any farm,
20 forest, nursery, or greenhouse.

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

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

27 (5) "Designated representative" means any person or
28 organization to whom a worker gives written authorization to
29 exercise the right to request the agricultural pesticide
30 information pursuant to this part.

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1 (6) "Fact sheet" means any state or federally approved
2 fact sheet.

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

6 (a) The chemical name and the common name of the
7 agricultural pesticide.

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

10 1. The potential for fire, explosions, corrosivity,
11 and reactivity.

12 2. The known acute health effects and chronic health
13 effects of risks from exposure to the agricultural pesticide,
14 including those medical conditions which are generally
15 recognized as being aggravated by exposure to the agricultural
16 pesticide.

17 3. The primary routes of entry and symptoms of
18 overexposure.

19 (c) The proper precautions, handling practices,
20 necessary personal protective equipment, and other safety
21 precautions in the use of or exposure to the agricultural
22 pesticide, including appropriate emergency treatment in case
23 of overexposure.

24 (d) The emergency procedures for spills, fire,
25 disposal, and first aid.

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

30 (f) The year and the month, if available, that the
31 information was compiled and the name, address, and emergency

1 telephone number of the manufacturer responsible for preparing
2 the information.

3 (8) "Retaliation" means actions, such as dismissal,
4 demotion, harassment, blacklisting with other employers,
5 reducing pay or work hours, or taking away company housing, by
6 any agricultural employer against any worker who exercises any
7 right under the United States Environmental Protection Agency
8 Worker Protection Standard, 40 C.F.R. s. 170.7(b) (August 21,
9 1992) or this part.

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

14 (10) "Worker" means any person, including a farmworker
15 or a self-employed person, who is employed for any type of
16 compensation and who is performing activities relating to the
17 production of agricultural plants on an agricultural
18 establishment. The term "worker" does not include any person
19 employed by a commercial pesticide handling establishment to
20 perform tasks as crop advisors.

21 Section 4. Section 487.2041, Florida Statutes, is
22 created to read:

23 487.2041 Enforcement of federal worker protection
24 regulations.--The department shall adopt by rule the
25 regulations established by the United States Environmental
26 Protection Agency Labeling Requirement for Pesticides and
27 Devices, 40 C.F.R. part 156, and the Worker Protection
28 Standard, 40 C.F.R. part 170, adopted August 21, 1992. If the
29 provisions of this part are preempted in part by federal law,
30 those provisions not preempted shall apply.

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1 Section 5. Section 487.2051, Florida Statutes, is
2 created to read:

3 487.2051 Availability of agricultural pesticide
4 information to workers and physicians.--

5 (1)(a) The agricultural employer shall make available
6 agricultural pesticide information concerning any agricultural
7 pesticide to any worker who enters an agricultural pesticide
8 treated area on an agricultural establishment where, within
9 the last 30 days, an agricultural pesticide has been applied
10 or a restricted-entry interval has been in effect or to any
11 worker who may be exposed to the agricultural pesticide during
12 normal conditions of use or in a foreseeable emergency.

13 (b) The agricultural pesticide information shall be in
14 the form of a material safety data sheet or a state or
15 federally approved fact sheet. The agricultural employer
16 shall provide a written copy of the information specified in
17 this section within 2 working days of a request for the
18 information by a worker, a designated representative of the
19 worker, or medical personnel treating the worker.

20 (c) The distributor, manufacturer, or importer of
21 agricultural pesticides shall prepare and provide each direct
22 purchaser of agricultural pesticides with a material safety
23 data sheet. If the material safety data sheet or fact sheet
24 for the agricultural pesticide is not available at the time
25 the agricultural pesticide is purchased, the agricultural
26 employer shall take appropriate and timely steps to obtain the
27 material safety data sheet or fact sheet from the distributor,
28 the manufacturer, the department, a federal agency, or another
29 distribution source.

30 (2) The department shall design and make available to
31 the trainer a one-page general agricultural pesticide safety

1 sheet, hereafter referred to as "safety sheet." This safety
2 sheet must be in a language understood by the worker and must
3 include, but is not limited to, illustrated instructions on
4 prevention of agricultural pesticide exposure and toll-free
5 numbers to the Florida Poison Control Centers so that workers
6 may call for additional agricultural pesticide exposure
7 information. The trainer shall provide to the worker the
8 safety sheet at the time of training pursuant to the United
9 States Environmental Protection Agency Worker Protection
10 Standard, 40 C.F.R. s. 170.130 (August 21, 1992).

11 Section 6. Section 487.2061, Florida Statutes, is
12 created to read:

13 487.2061 Prohibited acts.--It is unlawful for any
14 agricultural employer to:

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

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

21 Section 7. Section 487.2071, Florida Statutes, is
22 created to read:

23 487.2071 Penalties against agricultural employer
24 violators; worker relief; monitoring complaints of
25 retaliation.--

26 (1) Penalties set forth in part I of this chapter
27 shall be applied to any agricultural employer who violates any
28 provision in this part. Agricultural employers who violate the
29 provisions of this part also shall be subject to the federal
30 penalties in the United States Environmental Protection Agency
31 Worker Protection Standard, 40 C.F.R. s. 170.9(b).

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

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

13 (c) In any action brought pursuant to this section
14 where the retaliatory personnel action is predicated upon the
15 disclosure of an illegal activity, policy, or practice to an
16 appropriate governmental agency, the worker shall not be
17 required to show that the disclosure to the government agency
18 was under oath or in writing or that the notification to the
19 employer concerning the illegal activity, policy, or practice
20 was in writing as provided in s. 448.102(1).

21 (3) The department shall monitor all complaints of
22 retaliation which it receives and report its findings to the
23 President of the Senate and the Speaker of the House of
24 Representatives on October 1, 2006. The report shall include
25 the number of such complaints received, the circumstances
26 surrounding the complaints, and the action taken concerning
27 the complaints.

28 Section 8. The Division of Statutory Revision is
29 requested to designate sections 487.011-487.175, Florida
30 Statutes, as part I of that chapter and sections
31 487.2011-487.2071, Florida Statutes, as created by this act,

1 as part II of that chapter. The division is further requested
2 to name part II the "Florida Agricultural Worker Safety Act."

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

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6 SENATE SUMMARY

7 Creates the Florida Agricultural Worker Safety Act.
8 Requires the Department of Agriculture and Consumer
9 Services to adopt United States E.P.A. worker protection
10 regulations. Requires agricultural employers to make
11 available agricultural pesticide information. Requires
12 distributors, manufacturers, and importers of pesticides
13 to provide such information to purchasers of pesticides.
14 Provides penalties for failing to make required
15 information available and for taking retaliatory action
16 against workers exercising their rights.
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