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CHAMBER ACTION

The Committee on Natural Resources recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to agricultural fertilizers; amending s. 576.045, F.S.; providing that nitrogen and phosphorus contamination are water quality issues; including surface water in the types of waters in which residues are found; including a fee for fertilizer that contains phosphorus; revising purposes for use of collected fees; providing for implementation of interim measures, best-management practices, or other measures for compliance with state water quality standards relating to application of fertilizers containing nitrogen or phosphorus; providing that adopted rules are consistent with provisions of s. 403.067(7)(d), F.S.; revising dates for expiration of certain provisions; providing an effective date.

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

Section 1. Section 576.045, Florida Statutes, is amended to read:



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29 576.045 Nitrogen and phosphorus Nitrate; findings and
30 intent; fees; purpose; best-management practices; waiver of
31 liability; compliance; rules; ~~report~~; exclusions; expiration.--

32 (1) FINDINGS AND INTENT.--

33 (a) The Legislature finds that nitrogen and phosphorus
34 ~~nitrate~~ residues have been found in groundwater, surface water,
35 and drinking water in various areas throughout the state at
36 levels in excess of established water quality standards. The
37 Legislature further finds that some fertilization management
38 practices could be a source of such nitrate contamination.

39 (b) It is the intent of the Legislature to improve
40 fertilization management ~~fertilizer-management~~ practices as soon
41 as practicable in a way that protects the state's water
42 resources and preserves a viable agricultural industry. This
43 goal is to be accomplished through research concerning best-
44 management practices and education and incentives for the
45 agricultural industry and other major users of fertilizer.

46 (2) FEES.--

47 (a) In addition to the fees imposed under ss. 576.021 and
48 576.041, the following supplemental fees shall be collected and
49 paid by licensees for the sole purpose of implementing this
50 section:

51 1. One hundred dollars for each license to distribute
52 fertilizer.

53 2. One hundred dollars for each of the first five
54 specialty fertilizer registrations and \$25 for each registration
55 after the first five.



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56 3. Fifty cents per ton for all fertilizer that contains
57 nitrogen or phosphorus and that is sold in this state.

58 (b) All fees paid to the department under this section are
59 due and payable at the same time and in the same manner as the
60 fees specified in ss. 576.021 and 576.041 and are subject to all
61 provisions contained in those sections.

62 (c) All fees paid under this section must be deposited
63 into the General Inspection Trust Fund and are exempt from the
64 provisions of s. 215.20. These funds are to be appropriated
65 annually to the department and allocated according to a
66 memorandum of understanding between the department and the
67 Department of Environmental Protection ~~to be adopted by October~~
68 ~~1, 1994~~. The allocation of indirect costs to these funds by any
69 state agency is specifically prohibited.

70 (3) PURPOSE.--The funds collected pursuant to subsection
71 (2) must be used by the department for ~~the sole purpose of:~~

72 (a) Research, development, demonstration, and
73 implementation of suitable interim measures, best-management
74 practices, or other measures used to achieve state water quality
75 standards for nitrogen and phosphorus criteria. Implementation
76 of interim measures, best-management practices, and other
77 measures may include cost-sharing grants, technical assistance,
78 implementation tracking, and conservation leases or other
79 agreements for water quality improvement. Contracting, where
80 ~~appropriate, with the Institute of Food and Agricultural~~
81 ~~Sciences at the University of Florida and the College of~~
82 ~~Engineering, Science, Technology, and Agriculture at Florida~~
83 ~~Agricultural and Mechanical University to conduct research~~



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84 ~~relating to best-management practices designed to prevent~~
85 ~~nitrate from fertilizers or other soil-applied nutritional~~
86 ~~materials from entering groundwater at levels in excess of state~~
87 ~~water quality standards. Such contracts must be for fixed~~
88 ~~periods of time and must require interim reports concerning the~~
89 ~~progress of the research.~~

90 (b) Approving, adopting, publishing, and distributing
91 interim measures, best-management practices, or other measures.
92 In the process of developing, approving, and adopting interim
93 measures, best-management practices, or other measures, the
94 department shall consult with the Department of Environmental
95 Protection, the Department of Health, the water management
96 districts, environmental groups, the fertilizer industry, and
97 representatives from the affected farming groups.

98 (c) Reimbursing the ~~Water Quality Assurance Trust Fund for~~
99 ~~costs incurred by the~~ Department of Environmental Protection for
100 costs incurred that are associated with:

101 1. Monitoring and verifying the effectiveness of the
102 interim measures, best-management practices, or other measures
103 approved and adopted under subsection (6) paragraph (b) at
104 representative sites. The Department of Environmental Protection
105 shall use best professional judgment in making its initial
106 determination of the effectiveness of interim measures, best-
107 management practices, or other measures.

108 2. Sampling, analysis, and restoration of potable water
109 supplies, pursuant to s. 376.307, found to contain levels of
110 nitrate in excess of state water quality standards, which excess



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111 is determined to be the result of the application of fertilizers
112 or other soil-applied nutritional materials containing nitrogen.

113
114 This subsection must be implemented through a memorandum of
115 understanding between the department and the Department of
116 Environmental Protection ~~to be adopted by October 1, 1994.~~

117 (4) WAIVER OF LIABILITY.--Notwithstanding any provision of
118 law, the Department of Environmental Protection is not
119 authorized to institute proceedings against any person under the
120 provisions of s. 376.307(5) to recover any costs or damages
121 associated with nitrogen or phosphorus ~~nitrate~~ contamination of
122 groundwater or surface water, or the evaluation, assessment, or
123 remediation of such ~~nitrate~~ contamination of groundwater or
124 surface water, including sampling, analysis, and restoration of
125 potable water supplies, where the ~~nitrate~~ contamination of
126 groundwater or surface water is determined to be the result of
127 the application of fertilizers or other soil-applied nutritional
128 materials containing nitrogen or phosphorus, provided the
129 property owner or leaseholder:

130 (a)1. Provides the department with a notice of intent to
131 implement applicable interim measures, best-management
132 practices, or other measures adopted by the department which
133 practices or measures have been verified by the Department of
134 Environmental Protection to be effective; and

135 2. Implements applicable interim measures, best-management
136 practices, or other measures as soon as practicable according to
137 rules adopted by the department or no longer applies fertilizers



138 or other soil-applied nutritional materials containing nitrogen
139 or phosphorus; or and

140 ~~3. Implements practicable interim measures identified and~~
141 ~~adopted by the department which can be implemented immediately~~
142 ~~or according to rules adopted by the department; or~~

143 (b) No longer applies fertilizers or other soil-applied
144 nutritional materials containing nitrogen or phosphorus as of
145 the effective date of this section.

146 (5) COMPLIANCE.--If the property owner or leaseholder
147 implements interim measures, best-management practices, or other
148 measures adopted by the department which practices or measures
149 ~~that~~ have been verified by the Department of Environmental
150 Protection to be effective ~~at representative sites~~ and complies
151 with the following, there is a presumption of compliance with
152 state water nitrate groundwater quality standards for such
153 criteria with respect to the application of fertilizers or other
154 soil-applied nutritional materials containing nitrogen or
155 phosphorus:

156 (a)1. Provides the department with a notice of intent to
157 implement applicable interim measures, best-management
158 practices, or other measures adopted by the department; and

159 2. Implements applicable interim measures, best-management
160 practices, or other measures as soon as practicable according to
161 rules adopted by the department or no longer applies fertilizers
162 or other soil-applied nutritional materials containing nitrogen
163 or phosphorus; or and



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164 ~~3. Implements practicable interim measures identified and~~
165 ~~adopted by the department which can be implemented immediately~~
166 ~~or according to rules adopted by the department; or~~

167 (b) No longer applies fertilizers or other soil-applied
168 nutritional materials containing nitrogen or phosphorus as of
169 the effective date of this section.

170 (6) RULEMAKING.--

171 ~~(a)~~ The department, in consultation with the Department of
172 Environmental Protection, the Department of Health, the water
173 management districts, environmental groups, the fertilizer
174 industry, and representatives from the affected farming groups,
175 shall adopt rules to:

176 (a)1. Specify the requirements of interim measures, best-
177 management practices, or other measures to be implemented by
178 property owners and leaseholders.

179 (b)2. Establish procedures for property owners and
180 leaseholders to submit the notice of intent to implement and
181 comply with interim measures, best-management practices, or
182 other measures.

183 (c)3. Establish schedules for implementation of interim
184 measures, best-management practices, or other measures ~~and of~~
185 ~~interim measures that can be taken prior to adoption of best-~~
186 ~~management practices.~~

187 (d)4. Establish a system to assure the implementation of
188 best-management practices, including recordkeeping requirements.

189 ~~(b) Rules adopted pursuant to this subsection shall become~~
190 ~~effective pursuant to the applicable provisions of chapter 120,~~
191 ~~but must be submitted to the President of the Senate and the~~



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192 ~~Speaker of the House of Representatives for review by the~~
193 ~~Legislature. The rules shall be referred to the appropriate~~
194 ~~committees of substance and scheduled for review during the~~
195 ~~first available regular session following adoption. Except as~~
196 ~~otherwise provided by operation of law, such rules shall remain~~
197 ~~in effect until rejected or modified by act of the Legislature.~~

198 (7) OTHER PROVISIONS.--

199 (a) This section does not limit the authority of the
200 Department of Environmental Protection to regulate discharges
201 associated with the commercial feeding of livestock and poultry
202 defined in chapter 585, including that of dairy farm and egg
203 production operations, or the disposal of sludge, residuals, or
204 septage. This paragraph does not grant additional authority to
205 regulate these discharges.

206 (b) This section does not limit federally delegated
207 regulatory authority.

208 (c) The Department of Environmental Protection may adopt
209 rules to establish criteria for dairy farms which provide
210 reasonable assurance that state nitrate groundwater quality
211 standards will not be violated and which, provided such criteria
212 are met, shall prohibit the Department of Environmental
213 Protection from instituting proceedings against any dairy farmer
214 under the provisions of s. 376.307(5) and shall provide a
215 presumption of compliance with safe nitrate groundwater quality
216 standards.

217 (d) This section, except for subsection (2), does not
218 apply to the manufacture, mixing, or blending of fertilizer,
219 including fertilizer containing sludge, residuals, or septage.



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220 (8) EXPIRATION OF PROVISIONS.--Subsections (1), (2), (3),
221 (4), and (6) expire on December 31, 2012 ~~2003~~. Subsections (5)
222 and (7) expire on December 31, 2017 ~~2008~~.
223 Section 2. This act shall take effect July 1, 2003.