

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Poppell offered the following:

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3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Subsection (8) of section 381.008, Florida
6 Statutes, is amended to read:

7 381.008 Definitions of terms used in ss. 381.008-
8 381.00897.--As used in ss. 381.008-381.00897, the following
9 words and phrases mean:

10 (8) "Residential migrant housing"--A building, structure,
11 mobile home, barracks, or dormitory, and any combination thereof
12 on adjacent property which is under the same ownership,
13 management, or control, and the land appertaining thereto, that
14 is rented or reserved for occupancy by five or more seasonal or
15 migrant farmworkers, except:

16 (a) Housing furnished as an incident of employment.

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17 (b) A single-family residence or mobile home dwelling unit
18 that is occupied only by a single family and that is not under
19 the same ownership, management, or control as other farmworker
20 housing to which it is adjacent or contiguous.

21 (c) A hotel, motel, or resort condominium, as defined in
22 chapter 509, that is furnished for transient occupancy.

23 (d) Any housing owned or operated by a public housing
24 authority except for housing which is specifically provided for
25 persons whose principal income is derived from agriculture.

26 Section 2. Subsections (1) and (2) of section 381.0086,
27 Florida Statutes, are amended, and subsection (6) is added to
28 said section, to read:

29 381.0086 Rules; variances; penalties.--

30 (1) The department shall adopt rules necessary to protect
31 the health and safety of migrant farmworkers ~~farm workers~~ and
32 other migrant labor camp or residential migrant housing
33 occupants, including rules governing field sanitation
34 facilities. These rules must include definitions of terms,
35 provisions relating to plan review of the construction of new,
36 expanded, or remodeled camps or residential migrant housing,
37 sites, buildings and structures, personal hygiene facilities,
38 lighting, sewage disposal, safety, minimum living space per
39 occupant, bedding, food equipment, food storage and preparation,
40 insect and rodent control, garbage, heating equipment, water
41 supply, maintenance and operation of the camp, housing, or
42 roads, and such other matters as the department finds to be
43 appropriate or necessary to protect the life and health of the
44 occupants. Housing operated by a public housing authority is

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45 exempt from the provisions of any administrative rule that
46 conflicts with or is more stringent than the federal standards
47 applicable to the housing.

48 (2) Except when prohibited as specified in subsection (6),
49 an owner or operator may apply for a permanent structural
50 variance from the department's rules by filing a written
51 application and paying a fee set by the department, not to
52 exceed \$100. This application must:

53 (a) Clearly specify the standard from which the variance
54 is desired.†

55 (b) Provide adequate justification that the variance is
56 necessary to obtain a beneficial use of an existing facility and
57 to prevent a practical difficulty or unnecessary hardship.†~~and~~

58 (c) Clearly set forth the specific alternative measures
59 that the owner or operator has taken to protect the health and
60 safety of occupants and adequately show that the alternative
61 measures have achieved the same result as the standard from
62 which the variance is sought.

63 (6) For the purposes of filing an interstate clearance
64 order with the Agency for Workforce Innovation, if the housing
65 is covered by 20 C.F.R. part 654, subpart E, no permanent
66 structural variance referred to in subsection (2) is allowed.

67 Section 3. Subsections (1) and (6) of section 381.0087,
68 Florida Statutes, are amended, and subsection (9) is added to
69 said section, to read:

70 381.0087 Enforcement; citations.--

71 (1) Department personnel ~~or crew chief compliance officers~~
72 ~~employed by the Bureau of Compliance of the Florida Department~~

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73 ~~of Labor and Employment Security~~ may issue citations that
74 contain an order of correction or an order to pay a fine, or
75 both, for violations of ss. 381.008-381.00895 or the field
76 sanitation facility rules adopted by the department when a
77 violation of those sections or rules is enforceable by an
78 administrative or civil remedy, or when a violation of those
79 sections or rules is a misdemeanor of the second degree. A
80 citation issued under this section constitutes a notice of
81 proposed agency action. The recipient of a citation for a major
82 deficiency, as defined by rule of the department, will be given
83 a maximum of 48 hours to make satisfactory correction or
84 demonstrate that provisions for correction are satisfactory.

85 (6) Any person who willfully refuses to sign and accept a
86 citation issued by the department commits ~~or the Department of~~
87 ~~Labor and Employment Security is guilty of~~ a misdemeanor of the
88 second degree, punishable as provided in s. 775.082 or s.
89 775.083.

90 (9) When the department suspects that a law has been
91 violated, it shall notify the entity that enforces the law.

92 Section 4. Subsection (1) of section 403.088, Florida
93 Statutes, is amended to read:

94 403.088 Water pollution operation permits; conditions.--

95 (1) No person, without written authorization of the
96 department, shall discharge into waters within the state any
97 waste which, by itself or in combination with the wastes of
98 other sources, reduces the quality of the receiving waters below
99 the classification established for them. However, this section
100 shall not be deemed to prohibit the application of pesticides to

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101 waters in the state for the control of insects, aquatic weeds,
102 or algae, provided the application is performed pursuant to a
103 program approved by the Department of Health, in the case of
104 insect control, or the department, in the case of aquatic weed
105 or algae control. The department is directed to enter into
106 interagency agreements to establish the procedures for program
107 approval. Such agreements shall provide for public health,
108 welfare, and safety, as well as environmental factors. Approved
109 programs must provide that only chemicals approved for the
110 particular use by the United States Environmental Protection
111 Agency or by the Department of Agriculture and Consumer Services
112 may be employed and that they be applied in accordance with
113 registered label instructions, state standards for such
114 application, and the provisions of the Florida Pesticide Law,
115 part I of chapter 487.

116 Section 5. Subsection (1) of section 450.191, Florida
117 Statutes, is amended to read:

118 450.191 Executive Office of the Governor; powers and
119 duties.--

120 (1) The Executive Office of the Governor is authorized and
121 directed to:

122 (a) Advise and consult with ~~employers of~~ migrant and
123 seasonal workers and their employers as to the ways and means of
124 improving living and working conditions of migrant and seasonal
125 workers. +

126 (b) Cooperate with the Department of Health in
127 establishing minimum standards of preventive and curative health
128 and of housing and sanitation in migrant labor camps and in

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129 making surveys to determine the adequacy of preventive and
130 curative health services available to occupants of migrant labor
131 camps.†

132 (c) Provide coordination for the enforcement of ss.
133 381.008-381.0088 and ss. 450.27-450.38.†

134 (d) Cooperate with the Department of Business and
135 Professional Regulation ~~other departments of government~~ in
136 coordinating and enforcing all applicable labor laws, including,
137 but not limited to, those relating to private employment
138 agencies, child labor, wage payments, wage claims, and farm
139 labor contractors. ~~crew leaders;~~

140 (e) Cooperate with the Department of Education to provide
141 educational facilities for the children of migrant laborers.†

142 (f) Cooperate with the Department of Highway Safety and
143 Motor Vehicles to establish minimum standards for the
144 transporting of migrant laborers.†

145 (g) Cooperate with the Department of Agriculture and
146 Consumer Services to conduct an education program for employers
147 of migrant laborers pertaining to the standards, methods, and
148 objectives of the office.†

149 (h) Cooperate with the Department of Children and Family
150 Services in coordinating all public assistance programs as they
151 may apply to migrant laborers.†

152 (i) Coordinate all federal, state, and local programs
153 pertaining to migrant laborers.†

154 (j) Cooperate with the Agency for Workforce Innovation
155 ~~farm labor office of the Department of Business and Professional~~
156 ~~Regulation~~ in the recruitment and referral of migrant laborers

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157 and other persons for the planting, cultivation, and harvesting
158 of agricultural crops in Florida.

159 (2) The office shall arrange, through the Department of
160 Health, for the provision of the supplementary services set
161 forth in paragraph (1)(b) to the extent of available
162 appropriations. Such services may be provided through the use of
163 one or more traveling dispensaries, or by contract with
164 physicians, dentists, hospitals, or clinics, or in such manner
165 as may be recommended by the Department of Health.

166 Section 6. Section 450.201, Florida Statutes, is amended
167 to read:

168 450.201 Legislative Commission on Migrant and Seasonal
169 Labor; membership; filling vacancies.--

170 (1) There is created a permanent joint committee of the
171 Florida Legislature to be known as the Legislative Commission on
172 Migrant and Seasonal Labor, to be composed of three members of
173 the Senate, appointed by the President of the Senate, and three
174 members of the House of Representatives, appointed by the
175 Speaker of the House. One member from each house shall be a
176 member of the minority party. Any vacancy in the commission
177 shall be filled by the respective presiding officer from the
178 membership of the legislative body from which the vacancy
179 occurred. However, a member who ceases to be a member of the
180 legislative body from which appointed shall continue to be a
181 member of the commission until the next succeeding regular
182 session of the Legislature, at which the commission shall render
183 its report to the Legislature.

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184 (2) Appointments shall be made no later than March 1,
185 2005.

186 (3) The first meeting of the commission shall be no later
187 than July 1, 2005.

188 Section 7. Section 450.231, Florida Statutes, is amended
189 to read:

190 450.231 Annual reports to Legislature.--The commission
191 shall report its findings, recommendations, and proposed
192 legislation to each regular session of the Legislature no later
193 than February 1 of each year beginning in 2006.

194 Section 8. Section 450.27, Florida Statutes, is amended to
195 read:

196 450.27 Short title.--This part shall be known by the
197 popular name ~~may be cited as~~ the "Farm Labor Contractor
198 Registration Law."

199 Section 9. Section 450.271, Florida Statutes, is amended
200 to read:

201 450.271 State administration of the Migrant and Seasonal
202 Agricultural Worker Protection Act.--The Department of Business
203 and Professional Regulation ~~Labor and Employment Security~~ may
204 enter into agreements with the Secretary of Labor of the United
205 States to authorize the department to administer within the
206 State of Florida the provisions of the Migrant and Seasonal
207 Agricultural Worker Protection Act of 1983, as amended.

208 Section 10. Subsections (5) and (6) are added to section
209 450.28, Florida Statutes, to read:

210 450.28 Definitions.--

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211 (5) "Minor violation" means a violation of a specific
212 state or federal law or rule that does not result in economic or
213 physical harm to any person recruited, transported, supplied, or
214 hired by a farm labor contractor or create a significant threat
215 of such harm.

216 (6) "Major violation" means a violation of a specific
217 state or federal law or rule that results in economic or
218 physical harm to any person recruited, transported, supplied, or
219 hired by a farm labor contractor or creates a significant threat
220 of such harm.

221 Section 11. Subsections (6) and (7) of section 450.30,
222 Florida Statutes, are amended to read:

223 450.30 Requirement of certificate of registration;
224 education and examination program.--

225 (6) The department shall require an applicant for renewal
226 of a certificate of registration to retake the examination only
227 if:

228 (a) During the prior certification period, the department
229 issued a final order assessing a civil monetary penalty for a
230 major violation of this part or revoked or refused to renew or
231 issue a certificate of registration; or

232 (b) The department determines that new requirements
233 related to the duties and responsibilities of a farm labor
234 contractor necessitate a new examination.

235 (7) The department shall charge each applicant a \$35 fee
236 for the education and examination program. Such fees shall be
237 deposited in the Professional Regulation Crew Chief Registration
238 Trust Fund.

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239 Section 12. Subsections (1) and (2) of section 450.31,
240 Florida Statutes, are amended, and subsections (5) and (6) are
241 added to said section, to read:

242 450.31 Issuance, revocation, and suspension of, and
243 refusal to issue or renew, certificate of registration.--

244 (1) The department shall not issue to any person a
245 certificate of registration as a farm labor contractor, nor
246 shall it renew such certificate, until:

247 (a) Such person has executed a written application
248 therefor in a form and pursuant to regulations prescribed by the
249 department and has submitted such information as the department
250 may prescribe.

251 (b) Such person has obtained and holds a valid federal
252 certificate of registration as a farm labor contractor, or a
253 farm labor contractor employee, unless exempt by federal law.

254 (c) Such person pays to the department, by cashier's check
255 ~~in cash~~, certified check, or money order, a nonrefundable
256 application fee of \$125 ~~\$75~~. Fees collected by the department
257 under this subsection shall be deposited in the State Treasury
258 into the Professional Regulation Crew Chief Registration Trust
259 ~~Fund, which is hereby created~~, and shall be used ~~utilized~~ for
260 administration of this part.

261 (d) Such person has successfully taken and passed the farm
262 labor contractor examination.

263 (e) Such person has designated an agent to receive service
264 of process and other official or legal documents. The agent must
265 be available during regular business hours, Monday through

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266 Friday, to accept service on behalf of the farm labor
267 contractor.

268 (2) The department may revoke, suspend, or refuse to issue
269 or renew any certificate of registration when it is shown that
270 the farm labor contractor has:

271 (a) Violated or failed to comply with any provision of
272 this part or the rules adopted pursuant to this part; s. 450.36.

273 (b) Made any misrepresentation or false statement in his
274 or her application for a certificate of registration;-

275 (c) Given false or misleading information concerning
276 terms, conditions, or existence of employment to persons who are
277 recruited or hired to work on a farm;-

278 (d) Been assessed a civil fine by the department for which
279 payment is overdue;

280 (e) Failed to pay unemployment compensation taxes as
281 determined by the Agency for Workforce Innovation;

282 (f) Been denied, or had suspended or revoked, a federal
283 certificate of registration as a farm labor contractor; or

284 (g) Failed to pay federal employee taxes as determined by
285 the Internal Revenue Service.

286 (5) The department may permanently revoke or refuse to
287 issue or renew a certificate of registration if such applicant
288 or certificate holder has been convicted within the preceding 5
289 years of:

290 (a) A crime under state or federal law:

291 1. Relating to gambling, or to the sale, distribution, or
292 possession of alcoholic beverages.

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293 2. Committed in connection with, or incident to, any farm
294 labor contracting activities; or

295 (b) Any felony under state or federal law involving
296 robbery, bribery, extortion, embezzlement, grand larceny,
297 burglary, arson, violation of narcotics laws, murder, rape,
298 assault with intent to kill, assault that inflicts grievous
299 bodily injury, prostitution, peonage, or smuggling or harboring
300 individuals who have entered the country illegally.

301 (6) Receipt and acceptance of a certificate of
302 registration as a farm labor contractor constitutes
303 unconditional permission for and acquiescence by the contractor
304 to the inspection by department personnel of books, ledgers, and
305 all other documents that are related to the performance of the
306 contractor's farm labor activities.

307 Section 13. Section 450.321, Florida Statutes, is created
308 to read:

309 450.321 Best practices incentive program for farm labor
310 contractors.--

311 (1) To promote compliance with this part, and to help the
312 public identify farm labor contractors who have demonstrated a
313 firm commitment to responsible and safe labor practices, the
314 department shall develop and implement a best practices
315 incentive program for farm labor contractors.

316 (2) Farm labor contractors who seek designation as a best
317 practices farm labor contractor must meet the requirements set
318 by the department. A farm labor contractor may not transfer or
319 use without authorization a designation as a best practices farm
320 labor contractor.

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321 (3) The department may enter into a partnership agreement
322 with a farm labor contractor that states the responsibilities of
323 each party to the agreement regarding the requirements to
324 receive and maintain a best practices designation. Recipients of
325 a designation as a best practices farm labor contractor may use
326 this designation when soliciting business as long as the
327 designation is in effect.

328 (4) A designation as a best practices farm labor
329 contractor may be revoked when the department determines that
330 the recipient has failed to comply with a requirement
331 established pursuant to subsection (2). When a designation is
332 revoked, the prior recipient shall cease all use of the best
333 practices farm labor contractor designation when soliciting
334 business.

335 (5) The grant of a designation as a best practices farm
336 labor contractor is not an endorsement of the recipient by the
337 department and may not be characterized as such.

338 (6) The department may not be held liable in a civil
339 action for damages resulting from the granting, denying,
340 suspending, or revoking of a designation as a best practices
341 farm labor contractor.

342 (7) The department shall establish an incentive program
343 for farm labor contractors who hold a valid best practices
344 designation.

345 Section 14. Subsection (10) of section 450.33, Florida
346 Statutes, is amended, and subsection (11) is added to said
347 section, to read:

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348 450.33 Duties of farm labor contractor.--Every farm labor
349 contractor must:

350 (10) Comply with all applicable statutes, rules, and
351 regulations of the United States and of the State of Florida for
352 the protection or benefit of labor, including, but not limited
353 to, those providing for wages, hours, fair labor standards,
354 social security, workers' compensation, unemployment
355 compensation, child labor, and transportation. ~~The department~~
356 ~~shall not suspend or revoke a certificate of registration~~
357 ~~pursuant to this subsection unless:~~

358 ~~(a) A court or agency of competent jurisdiction renders a~~
359 ~~judgment or other final decision that a violation of one of the~~
360 ~~laws, rules, or regulations has occurred and, if invoked, the~~
361 ~~appellate process is exhausted;~~

362 ~~(b) An administrative hearing pursuant to ss. 120.569 and~~
363 ~~120.57 is held on the suspension or revocation and the~~
364 ~~administrative law judge finds that a violation of one of the~~
365 ~~laws, rules, or regulations has occurred and, if invoked, the~~
366 ~~appellate process is exhausted; or~~

367 ~~(c) The holder of a certificate of registration stipulates~~
368 ~~that a violation has occurred or defaults in the administrative~~
369 ~~proceedings brought to suspend or revoke his or her~~
370 ~~registration.~~

371 (11) Maintain accurate daily field records for each
372 employee actually paid by the farm labor contractor reflecting
373 the hours worked for the farm labor contractor and, if paid by
374 unit, the number of units harvested and the amount paid per
375 unit.

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376 Section 15. Subsections (4) and (5) are added to section
377 450.34, Florida Statutes, to read:

378 450.34 Prohibited acts of farm labor contractor.--A
379 licensee may not:

380 (4) Retaliate against any person that has filed a
381 complaint or aided an investigation pursuant to this part.

382 (5) Contract with or employ any person acting in the
383 capacity of a farm labor contractor, or performing activities
384 defined in s. 450.28(1), when that person does not have a
385 current certificate of registration issued by the department
386 pursuant to the requirements of this part.

387 Section 16. Section 450.35, Florida Statutes, is amended
388 to read:

389 450.35 Certain contracts or employment prohibited.--It is
390 unlawful for any person to contract with or employ ~~for the~~
391 ~~employment of farm workers with~~ any farm labor contractor as
392 defined in this act, for matters relating to farm labor, until
393 the labor contractor displays to him or her a current
394 certificate of registration issued by the department pursuant to
395 the requirements of this part. A violation of this section is
396 subject to the penalties provided for violations in s.
397 450.38(1).

398 Section 17. Section 450.37, Florida Statutes, is amended
399 to read:

400 450.37 Cooperation with state and federal agencies.--The
401 department shall, whenever appropriate, cooperate with any
402 federal agency. The department may cooperate with and enter into

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403 agreements with any other state agency to administer this
404 chapter or secure uniform rules.

405 Section 18. Section 450.38, Florida Statutes, is amended
406 to read:

407 450.38 Enforcement of farm labor ~~contractor~~ laws.--

408 (1) Any person, firm, association, or corporation not
409 excluded under s. 450.29 that commits a minor violation ~~who~~
410 ~~violates any provision~~ of this part commits a misdemeanor of the
411 second degree, punishable as provided in s. 775.082 or s.
412 775.083.

413 (2) Any person, firm, association, or corporation that
414 commits a major violation of this part commits a felony of the
415 third degree, punishable as provided in s. 775.082, s. 775.083,
416 or s. 775.084.

417 (3)~~(2)~~ Any person, firm, association, or corporation that
418 ~~who, on or after June 19, 1985,~~ commits a violation of this part
419 or of any rule adopted thereunder may be assessed a civil
420 penalty of not more than \$2,500 ~~\$1,000~~ for each such violation.
421 Such assessed penalties shall be paid by cashier's check ~~in~~
422 ~~cash~~, certified check, or money order and shall be deposited
423 into the General Revenue Fund. The department shall not
424 institute or maintain any administrative proceeding to assess a
425 civil penalty under this subsection when the violation is the
426 subject of a criminal indictment or information under this
427 section which results in a criminal penalty being imposed, or of
428 a criminal, civil, or administrative proceeding by the United
429 States government or an agency thereof which results in a
430 criminal or civil penalty being imposed. The department may

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431 adopt rules prescribing the criteria to be used to determine the
432 amount of the civil penalty and to provide notification to
433 persons assessed a civil penalty under this section.

434 ~~(4)(3)~~ Upon a complaint of the department being filed in
435 the circuit court of the county in which the farm labor
436 contractor resides or may be doing business, any farm labor
437 contractor who fails to obtain a certificate of registration as
438 required by this part may, in addition to such penalties, be
439 enjoined from engaging in any activity which requires the farm
440 labor contractor to possess a certificate of registration.

441 ~~(5)(4)~~ For the purpose of any investigation or proceeding
442 conducted by the department, the secretary of the department or
443 the secretary's designee shall have the power to administer
444 oaths, take depositions, make inspections when authorized by
445 statute, issue subpoenas which shall be supported by affidavit,
446 serve subpoenas and other process, and compel the attendance of
447 witnesses and the production of books, papers, documents, and
448 other evidence. The secretary of the department or the
449 secretary's designee shall exercise this power on the
450 secretary's own initiative.

451 (6) A farm labor contractor who commits a minor violation
452 of this part shall be issued a warning for the first violation.
453 A civil penalty in increments of \$250 may be assessed for each
454 successive violation of a specific statute or rule of this part
455 up to a maximum of \$2,500.

456 (7) A farm labor contractor who commits a major violation
457 of a specific statute or rule of this part shall be assessed a

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458 civil penalty of up to \$2,500 in accordance with the criteria
459 established by the department pursuant to s. 450.38.

460 Section 19. Section 450.39, Florida Statutes, is created
461 to read:

462 450.39 Prohibition against required purchase; prohibition
463 against excessive charges.--

464 (1) A farm labor contractor may not require any farmworker
465 to purchase goods or services solely from such farm labor
466 contractor or from a person acting as an agent for such farm
467 labor contractor.

468 (2) A farm labor contractor may not charge a farmworker
469 more than a reasonable cost for any commodity, including
470 housing, food, water, or other consumables, in accordance with
471 Title 29 C.F.R. s. 531.3. As used in this subsection, the term
472 "reasonable cost" does not include a profit to the farm labor
473 contractor or to any other person acting as an agent for the
474 farm labor contractor.

475 Section 20. Section 487.011, Florida Statutes, is amended
476 to read:

477 487.011 Popular name ~~Short title~~; administration.--This
478 part shall ~~chapter may~~ be known by the popular name ~~cited as~~ the
479 "Florida Pesticide Law" and shall be administered by the
480 Department of Agriculture and Consumer Services.

481 Section 21. Section 487.012, Florida Statutes, is amended
482 to read:

483 487.012 Declaration of purpose.--The purpose of this part
484 ~~chapter~~ is to regulate the distribution, sale, and use of
485 pesticides, except as provided in chapters 388 and 482, and to

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486 protect people and the environment from the adverse effects of
487 pesticides.

488 Section 22. Section 487.021, Florida Statutes, is amended
489 to read:

490 487.021 Definitions.--For the purpose of this part
491 ~~chapter~~:

492 (1) "Acceptable release rate" means a measured release
493 rate not exceeding 4.0 micrograms per square centimeter per day
494 at steady state conditions as determined in accordance with a
495 United States Environmental Protection Agency testing data call-
496 in notice of July 29, 1986, on tributyltin in antifouling paints
497 under the Federal Insecticide, Fungicide, and Rodenticide Act, 7
498 U.S.C. s. 136, or at a rate established by the department.

499 (2) "Active ingredient" means:

500 (a) In the case of a pesticide other than a plant
501 regulator, defoliant, or desiccant, an ingredient which will
502 prevent, destroy, repel, or mitigate insects, nematodes, fungi,
503 rodents, weeds, or other pests.

504 (b) In the case of a plant regulator, an ingredient which,
505 through physiological action, will accelerate or retard the rate
506 of growth or rate of maturation, or otherwise alter the
507 behavior, of ornamental or crop plants or the produce thereof.

508 (c) In the case of a defoliant, an ingredient which will
509 cause the leaves or foliage to drop from a plant.

510 (d) In the case of a desiccant, an ingredient which will
511 artificially accelerate the drying of plant tissue.

512 (3) "Added ingredient" means any plant nutrient or plant
513 regulator added to the mixture which is not an active pesticidal

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514 ingredient, but which the manufacturer wishes to show on the
515 label.

516 (4) "Adulterated" applies to any pesticide if its strength
517 or purity falls below or is in excess of the professed standard
518 of quality as expressed on labeling or under which it is sold,
519 if any substance has been substituted wholly or in part for the
520 pesticide or if any valuable constituent of the pesticide has
521 been wholly or in part abstracted.

522 (5) "Advertisement" means all representations disseminated
523 in any manner or by any means other than by labeling, for the
524 purpose of inducing, or which are likely to induce, directly or
525 indirectly, the purchase of pesticides.

526 (6) "Age of majority" means any natural person 18 years of
527 age or older, or an emancipated minor.

528 (7) "Aircraft" means any machine designed for flight and
529 for use in applying pesticides.

530 (8) "Animal" means all vertebrate and invertebrate
531 species, including, but not limited to, humans and other
532 mammals, birds, fish, and shellfish.

533 (9) "Antidote" means the most practical immediate
534 treatment for poisoning and includes first aid treatment.

535 (10) "Antifouling paint" means a coating, paint, or
536 treatment that is intended for use as a pesticide, as defined in
537 this section, to control freshwater or marine fouling organisms.

538 (11) "Antisiphon device" means a safety device used to
539 prevent the backflow of a mixture of water and chemicals into
540 the water supply.

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541 (12) "Batch" or "lot" means a quantity of pesticide
542 produced or packaged and readily identified by numbers, letters,
543 or other symbols.

544 (13) "Brand" means the name, number, trademark, or any
545 other designation which distinguishes one pesticide product from
546 another.

547 (14) "Certification" means the recognition by the
548 department that an individual is a competent pesticide
549 applicator and, thus, is eligible for licensure in one or more
550 of the designated license types and categories.

551 (15) "Certified applicator" means any individual who has
552 been recognized by the department as a competent pesticide
553 applicator and, thus, is eligible to apply for licensure in one
554 or more of the designated license types and categories.

555 (16) "Commercial applicator" means an individual who has
556 reached the age of majority and is licensed by the department to
557 use or supervise the use of any restricted-use pesticide for any
558 purpose on any property other than as provided by the
559 definitions of "private applicator," "product specific
560 applicator," or "public applicator," whether or not the
561 individual is a private applicator with respect to some uses.

562 (17) "Dealer" means any person, other than the
563 manufacturer or distributor, who offers for sale, sells,
564 barter, or otherwise supplies pesticides to the ultimate user
565 or consumer.

566 (18) "Deficiency" means the amount of an active ingredient
567 of a pesticide by which it fails to come up to its guaranteed
568 analysis when analyzed.

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569 (19) "Defoliant" means any substance or mixture of
570 substances intended for causing the leaves or foliage to drop
571 from a plant, with or without causing abscission.

572 (20) "Department" means the Department of Agriculture and
573 Consumer Services or its authorized representative.

574 (21) "Desiccant" means any substance or mixture of
575 substances intended for artificially accelerating the drying of
576 plant tissues.

577 (22) "Device" means any instrument or contrivance (other
578 than a firearm) which is intended for trapping, destroying,
579 repelling, or mitigating, any pest or other form of plant or
580 animal life (other than human and other than bacteria, virus, or
581 other microorganism on or in living humans or other living
582 animals); but not including equipment used for the application
583 of pesticides when sold separately.

584 (23) "Distribute" means to offer for sale, hold for sale,
585 sell, barter, or supply pesticides in this state.

586 (24) "Distributor" means any person who offers for sale,
587 holds for sale, sells, barter, or supplies pesticides in this
588 state.

589 (25) "Emergency exemption" means an exemption as
590 authorized in s. 18 of the Federal Insecticide, Fungicide, and
591 Rodenticide Act.

592 (26) "Environment" means all water, air, land, plants, and
593 animals, and their relationships with one another.

594 (27) "Equipment" means any type of ground, aquatic, or
595 aerial device used to apply any pesticide on land, and on
596 anything that may be growing, habituating, or stored on or in

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597 the land. Equipment does not include any pressurized hand-size
598 household device used to apply any pesticide, or any other
599 device where the person applying the pesticide is the source of
600 power for applying the pesticide.

601 (28) "Excess" means the amount of an active ingredient of
602 a pesticide found by analysis to be over the guaranteed amount.

603 (29) "Experimental use permit" means a permit issued by
604 the department or by the United States Environmental Protection
605 Agency as authorized in s. 5 of the Federal Insecticide,
606 Fungicide, and Rodenticide Act.

607 (30) "Fungi" means all non-chlorophyll-bearing
608 thallophytes (that is, all non-chlorophyll-bearing plants of a
609 lower order than mosses and liverworts), as, for example, rusts,
610 smuts, mildews, molds, yeasts, and bacteria, except those on or
611 in living humans or other animals.

612 (31) "Highly toxic" means any highly poisonous pesticide
613 as determined by the rules promulgated pursuant to this part
614 ~~chapter~~.

615 (32) "Imminent hazard" means a situation which exists when
616 the continued use of a pesticide during the time required for
617 cancellation proceedings would be likely to result in
618 unreasonable adverse effects on the environment or will involve
619 unreasonable hazard to the survival of a species declared
620 endangered.

621 (33) "Ineffective" means that pesticides such as
622 bacteriostats, disinfectants, germicides, sanitizers, and like
623 products fail to meet microbiological claims when tested in the
624 laboratory utilizing the officially approved procedures of the

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625 Association of Official Analytical Chemists or other methods or
626 procedures as the department may find necessary.

627 (34) "Inert ingredient" means an ingredient which is not
628 an active ingredient.

629 (35) "Ingredient statement" means a statement of the name
630 and percentage by weight of each active ingredient, together
631 with the total percentage of the inert ingredients in the
632 pesticides.

633 (36) "Insect" means any of the numerous small invertebrate
634 animals generally having the body more or less obviously
635 segmented, for the most part belonging to the class Insecta,
636 comprising six legs, usually in winged form (as, for example,
637 beetles, bugs, bees, and flies) and to other allied classes and
638 arthropods whose members are wingless and usually have more than
639 six legs (as, for example, spiders, mites, ticks, centipedes,
640 and wood lice).

641 (37) "Irrigation system" means any device or combination
642 of devices having a hose, pipe, or other conduit which connects
643 directly to any source of ground or surface water, through which
644 device or combination of devices water or a mixture of water and
645 chemicals is drawn and applied for agricultural purposes. The
646 term does not include any handheld hose sprayer or other similar
647 device which is constructed so that an interruption in water
648 flow automatically prevents any backflow to the water source.

649 (38) "Label" means the written, printed, or graphic matter
650 on or attached to a pesticide, device, or immediate and outside
651 container or wrappers of such pesticide or device.

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652 (39) "Labeling" means all labels and other written,
653 printed, or graphic matter referencing the pesticide or device
654 or upon any of its containers or wrappers, or accompanying the
655 pesticide or device at any time, but does not include accurate,
656 nonmisleading reference to current official publications of the
657 United States Departments of Agriculture or Interior, the
658 Environmental Protection Agency, the United States Public Health
659 Service, state experiment stations, state agricultural colleges,
660 or other similar federal institutions or official agencies of
661 this state or other states authorized by law to conduct research
662 in the field of pesticides.

663 (40) "Land" means all land and water areas, including
664 airspace.

665 (41) "Licensed applicator" means an individual who has
666 reached the age of majority and is authorized by license from
667 the department to use or supervise the use of any restricted-use
668 pesticide covered by the license.

669 (42) "Manufacturer" means a person engaged in the business
670 of importing, producing, preparing, mixing, formulating, or
671 reformulating pesticides for the purpose of distribution.

672 (43) "Mixer-loader" means any individual who handles open
673 containers or otherwise prepares, processes, or dilutes
674 pesticides in preparation for final application.

675 (44) "Nematode" means invertebrate animals of the phylum
676 Nemathelminthes and class Nematoda (that is, unsegmented round
677 worms with elongated, fusiform, or saclike bodies covered with
678 cuticle and inhabiting soil, water, plants, or plant parts), and
679 may also be known as nemas or eelworms.

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680 (45) "Official sample" means any sample of a pesticide
681 taken by the department in accordance with the provisions of
682 this part ~~chapter~~ or rules adopted under this part ~~chapter~~, and
683 designated as official by the department.

684 (46) "Organotin compound" means any compound of tin used
685 as a biocide in an antifouling paint.

686 (47) "Percent" means one one-hundredth part by weight or
687 volume.

688 (48) "Pest" means:

689 (a) Any insect, rodent, nematode, fungus, weed; or

690 (b) Any other form of terrestrial or aquatic plant or
691 animal life or virus, bacteria, or other microorganism, except
692 viruses, bacteria, or other microorganisms on or in living
693 humans or other living animals, which is declared to be a pest
694 by the administrator of the United States Environmental
695 Protection Agency or which may be declared to be a pest by the
696 department by rule.

697 (49) "Pesticide" means any substance or mixture of
698 substances intended for preventing, destroying, repelling, or
699 mitigating any insects, rodents, nematodes, fungi, weeds, or
700 other forms of plant or animal life or viruses, except viruses,
701 bacteria, or fungi on or in living humans or other animals,
702 which the department by rule declares to be a pest, and any
703 substance or mixture of substances intended for use as a plant
704 regulator, defoliant, or desiccant; however, the term
705 "pesticide" does not include any article that:

706 (a) Is a "new animal drug" within the meaning of s. 201(w)
707 of the Federal Food, Drug, and Cosmetic Act;

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708 (b) Has been determined by the Secretary of the United
709 States Department of Health and Human Services not to be a new
710 animal drug by a regulation establishing conditions of use for
711 the article; or

712 (c) Is an animal feed within the meaning of s. 201(x) of
713 the Federal Food, Drug, and Cosmetic Act bearing or containing
714 an article covered in this subsection.

715 (50) "Plant nutrient" means any ingredient that furnishes
716 nourishment to the plant or promotes its growth in a normal
717 manner.

718 (51) "Plant regulator" means any substance or mixture of
719 substances intended, through physiological action, for
720 accelerating or retarding the rate of growth or maturation, or
721 for otherwise altering the behavior, of ornamental or crop
722 plants or the produce thereof; but does not include substances
723 intended as plant nutrients, trace elements, nutritional
724 chemicals, plant inoculants, or soil amendments.

725 (52) "Private applicator" means an individual who has
726 reached the age of majority and is licensed by the department to
727 use or supervise the use of any restricted-use pesticide for
728 purposes of producing any agricultural commodity on property
729 owned or rented by his or her employer, or, if applied without
730 compensation other than the trading of personal services between
731 producers of agricultural commodities, on the property of
732 another person.

733 (53) "Product" means a unique pesticide and label as
734 distinguished by its individually assigned United States
735 Environmental Protection Agency registration number, special

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736 local need registration number, or experimental use permit
737 number.

738 (54) "Protect health and the environment" means protection
739 against any unreasonable adverse effects on people or the
740 environment.

741 (55) "Public applicator" means an individual who has
742 reached the age of majority and is licensed by the department to
743 use or supervise the use of restricted-use pesticides as an
744 employee of a state agency, municipal corporation, or other
745 governmental agency.

746 (56) "Product specific applicator" means an individual who
747 has reached the age of majority and is licensed by the
748 department to use or supervise the use of a particular
749 restricted-use pesticide product that is identified on the
750 license by the United States Environmental Protection Agency
751 registration number, as well as any Florida special local need
752 registration number and any specific identifying information as
753 deemed appropriate for nonfederally registered products exempt
754 under s. 18 of the Federal Insecticide, Fungicide, and
755 Rodenticide Act, provided that the restricted-use pesticide
756 product is used for the purpose of producing agricultural
757 commodities on property owned or rented by the licensee or the
758 licensee's employer, or is applied on the property of another
759 person without compensation other than trading of personal
760 services between producers of agricultural commodities.

761 (57) "Registrant" means the person registering any
762 pesticide pursuant to the provisions of this part ~~chapter~~.

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763 (58) "Restricted-use pesticide" means a pesticide which,
764 when applied in accordance with its directions for use,
765 warnings, and cautions and for uses for which it is registered
766 or for one or more such uses, or in accordance with a widespread
767 and commonly recognized practice, may generally cause, without
768 additional regulatory restrictions, unreasonable adverse effects
769 on the environment, or injury to the applicator or other
770 persons, and which has been classified as a restricted-use
771 pesticide by the department or the administrator of the United
772 States Environmental Protection Agency.

773 (59) "Sell or sale" includes exchanges.

774 (60) "Special local need registration" means a state
775 registration issued by the department as authorized in s. 24(c)
776 of the Federal Insecticide, Fungicide, and Rodenticide Act.

777 (61) "Special review" is a process for reviewing selected
778 pesticides based upon information that the pesticides have been
779 found to present environmental or health concerns not considered
780 in the registration process or that data submitted in support of
781 registration are inadequate or outdated.

782 (62) "Tolerance" means the deviation from the guaranteed
783 analysis permitted by law.

784 (63) "Transportation of pesticides in bulk" means the
785 movement of a pesticide which is held in an individual container
786 in undivided quantities of greater than 55 U.S. gallons liquid
787 measure or 100 pounds net dry weight.

788 (64) "Under the direct supervision of a licensed
789 applicator" means, unless otherwise prescribed by its labeling,
790 a pesticide that must be applied by a competent person acting

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791 under the instruction and control of a licensed applicator who
792 is available if and when needed, even though the licensed
793 applicator is not physically present when the pesticide is
794 applied.

795 (65) "Unreasonable adverse effects on the environment"
796 means any unreasonable risk to humans or the environment, taking
797 into account the economic, social, and environmental costs and
798 benefits of the use of any pesticide.

799 (66) "Vessel" means any type of watercraft or other
800 artificial contrivance used, or capable of being used, as a
801 means of transportation on water.

802 (67) "Weed" means any plant which grows where not wanted.

803 Section 23. Subsection (2) of section 487.025, Florida
804 Statutes, is amended to read:

805 487.025 Misbranding.--

806 (2) A pesticide is misbranded if:

807 (a) It is an imitation of, or is offered for sale under
808 the name of, another pesticide.

809 (b) Its labeling bears any reference to registration under
810 this part ~~chapter~~.

811 (c) The labeling accompanying it does not contain
812 instructions for use which are necessary and, if complied with,
813 adequate for the protection of the public.

814 (d) The label does not contain a warning or caution
815 statement which may be necessary and, if complied with, adequate
816 to prevent injury to living humans and other vertebrate animals.

817 (e) The label does not bear an ingredient statement on
818 that part of the immediate container, and on the outside

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819 container or wrapper, if there is one, through which the
820 ingredient statement on the immediate container cannot be
821 clearly read, of the retail package which is presented or
822 displayed under customary conditions of purchase.

823 (f) Any word, statement, or other information required by
824 or under authority of this part ~~chapter~~ to appear on the
825 labeling is not prominently placed thereon with such
826 conspicuousness, as compared with other words, statements,
827 designs, or graphic matter in the labeling, and in such terms as
828 to render it likely to be read and understood by the ordinary
829 individual under customary conditions of purchase and use.

830 (g) It is injurious to living humans or other vertebrate
831 animals or vegetation, except weeds, to which it is applied, or
832 to the person applying such pesticide as directed or in
833 accordance with commonly recognized practice.

834 (h) In the case of a plant regulator, defoliant, or
835 desiccant, when used as directed, it is injurious to living
836 humans or other vertebrate animals, or vegetation, to which it
837 is applied, or to the person applying such pesticide. However,
838 physical or physiological effects on plants or parts thereof
839 shall not be deemed to be injury when this is the purpose for
840 which the plant regulator, defoliant, or desiccant was applied
841 in accordance with the label claims and recommendations.

842 (i) Any ingredient which is present in amounts which are
843 not likely to be effective when used according to directions is
844 given undue prominence or conspicuousness, as compared with
845 ingredients which are present in effective amounts, in its

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846 labeling. Such ingredient shall appear only in the ingredient
847 statement.

848 (j) It is found to be ineffective when tested in the
849 laboratory.

850 (k) It is found by the department to be of short measure.

851 Section 24. Subsections (2), (4), (5), and (13) of section
852 487.031, Florida Statutes, are amended to read:

853 487.031 Prohibited acts.--It is unlawful:

854 (2) To distribute, sell, or offer for sale within this
855 state any pesticide or product which has not been registered
856 pursuant to the provisions of this part ~~chapter~~, except
857 pesticides distributed, sold, offered for sale, or used in
858 accordance with the provisions of federal or state restriction,
859 supervision, or cancellation orders or other existing stock
860 agreements.

861 (4) To detach, alter, deface, or destroy, in whole or in
862 part, any label or labeling provided for in this part ~~chapter~~ or
863 rules promulgated under this part ~~chapter~~, or to add any
864 substance to, or take any substance from, any pesticide in a
865 manner that may defeat the purpose of this part ~~chapter~~.

866 (5) For any person to use for his or her own advantage or
867 to reveal any information relative to formulas of products
868 acquired by authority of this part ~~chapter~~, other than to: the
869 department, proper officials, or employees of the state; the
870 courts of this state in response to a subpoena; physicians,
871 pharmacists, and other qualified persons, in an emergency, for
872 use in the preparation of antidotes. The information relative to

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873 formulas of products is confidential and exempt from the
874 provisions of s. 119.07(1).

875 (13) For any person to:

876 (a) Make a false or fraudulent claim through any medium,
877 misrepresenting the effect of materials or methods used;

878 (b) Make a pesticide recommendation or application not in
879 accordance with the label, except as provided in this section,
880 or not in accordance with recommendations of the United States
881 Environmental Protection Agency or not in accordance with the
882 specifications of a special local need registration;

883 (c) Operate faulty or unsafe equipment;

884 (d) Operate in a faulty, careless, or negligent manner;

885 (e) Apply any pesticide directly to, or in any manner
886 cause any pesticide to drift onto, any person or area not
887 intended to receive the pesticide;

888 (f) Fail to disclose to an agricultural crop grower, prior
889 to the time pesticides are applied to a crop, full information
890 regarding the possible harmful effects to human beings or
891 animals and the earliest safe time for workers or animals to
892 reenter the treated field;

893 (g) Refuse or, after notice, neglect to comply with the
894 provisions of this part ~~chapter~~, the rules adopted under this
895 part ~~chapter~~, or any lawful order of the department;

896 (h) Refuse or neglect to keep and maintain the records
897 required by this part ~~chapter~~ or to submit reports when and as
898 required;

899 (i) Make false or fraudulent records, invoices, or
900 reports;

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- 901 (j) Use fraud or misrepresentation in making an
902 application for a license or license renewal;
- 903 (k) Refuse or neglect to comply with any limitations or
904 restrictions on or in a duly issued license;
- 905 (l) Aid or abet a licensed or unlicensed person to evade
906 the provisions of this part ~~chapter~~, or combine or conspire with
907 a licensed or unlicensed person to evade the provisions of this
908 part ~~chapter~~, or allow a license to be used by an unlicensed
909 person;
- 910 (m) Make false or misleading statements during or after an
911 inspection concerning any infestation or infection of pests
912 found on land;
- 913 (n) Make false or misleading statements, or fail to
914 report, pursuant to this part ~~chapter~~, any suspected or known
915 damage to property or illness or injury to persons caused by the
916 application of pesticides;
- 917 (o) Impersonate any state, county, or city inspector or
918 official;
- 919 (p) Fail to maintain a current liability insurance policy
920 or surety bond as provided for in this part ~~chapter~~;
- 921 (q) Fail to adequately train, as provided for in this part
922 ~~chapter~~, unlicensed applicators or mixer-loaders applying
923 restricted-use pesticides under the direct supervision of a
924 licensed applicator; or
- 925 (r) Fail to provide authorized representatives of the
926 department with records required by this part ~~chapter~~ or with
927 free access for inspection and sampling of any pesticide, areas

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928 treated with or impacted by these materials, and equipment used
929 in their application.

930 Section 25. Subsections (2), (3), and (8) of section
931 487.041, Florida Statutes, are amended to read:

932 487.041 Registration.--

933 (2) For the purpose of defraying expenses of the
934 department in connection with carrying out the provisions of
935 this part ~~chapter~~, each person shall pay an annual registration
936 fee of \$250 for each registered pesticide. The annual
937 registration fee for each special local need label and
938 experimental use permit shall be \$100. All registrations expire
939 on December 31 of each year. Nothing in this section shall be
940 construed as applying to distributors or retail dealers selling
941 pesticides when such pesticides are registered by another
942 person.

943 (3) The department shall adopt rules governing the
944 procedures for pesticide registration and for the review of data
945 submitted by an applicant for registration of a pesticide. The
946 department shall determine whether a pesticide should be
947 registered, registered with conditions, or tested under field
948 conditions in this state. The department shall determine that
949 all requests for pesticide registrations meet the requirements
950 of current state and federal law. The department, whenever it
951 deems it necessary in the administration of this part ~~chapter~~,
952 may require the manufacturer or registrant to submit the
953 complete formula, quantities shipped into or manufactured in the
954 state for distribution and sale, evidence of the efficacy and
955 the safety of any pesticide, and other relevant data. The

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956 department may review and evaluate a registered pesticide if new
957 information is made available which indicates that use of the
958 pesticide has caused an unreasonable adverse effect on public
959 health or the environment. Such review shall be conducted upon
960 the request of the secretary of the Department of Health in the
961 event of an unreasonable adverse effect on public health or the
962 secretary of the Department of Environmental Protection in the
963 event of an unreasonable adverse effect on the environment. Such
964 review may result in modifications, revocation, cancellation, or
965 suspension of a pesticide registration. The department, for
966 reasons of adulteration, misbranding, or other good cause, may
967 refuse or revoke the registration of any pesticide, after notice
968 to the applicant or registrant giving the reason for the
969 decision. The applicant may then request a hearing, pursuant to
970 chapter 120, on the intention of the department to refuse or
971 revoke registration, and, upon his or her failure to do so, the
972 refusal or revocation shall become final without further
973 procedure. In no event shall registration of a pesticide be
974 construed as a defense for the commission of any offense
975 prohibited under this part ~~chapter~~.

976 (8) Nothing in this section affects the authority of the
977 department to administer the pesticide registration program
978 under this part ~~chapter~~ or the authority of the Commissioner of
979 Agriculture to approve the registration of a pesticide.

980 Section 26. Section 487.0435, Florida Statutes, is amended
981 to read:

982 487.0435 License classification.--The department shall
983 issue certified applicator licenses in the following

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984 classifications: certified public applicator; certified private
985 applicator; and certified commercial applicator. In addition,
986 separate classifications and subclassifications may be specified
987 by the department in rule as deemed necessary to carry out the
988 provisions of this part ~~chapter~~. Each classification shall be
989 subject to requirements or testing procedures to be set forth by
990 rule of the department and shall be restricted to the activities
991 within the scope of the respective classification as established
992 in statute or by rule. In specifying classifications, the
993 department may consider, but is not limited to, the following:

994 (1) Whether the license sought is for commercial, public,
995 or private applicator status.

996 (2) The method of applying the restricted-use pesticide.

997 (3) The specific crops upon which restricted-use
998 pesticides are applied.

999 (4) The proximity of populated areas to the land upon
1000 which restricted-use pesticides are applied.

1001 (5) The acreage under the control of the licensee.

1002 (6) The pounds of technical restricted toxicant applied
1003 per acre per year by the licensee.

1004 Section 27. Section 487.045, Florida Statutes, is amended
1005 to read:

1006 487.045 Fees.--

1007 (1) The department shall establish applicable fees by
1008 rule. The fees shall not exceed \$250 for commercial applicators
1009 or \$100 for private applicators and public applicators, for
1010 initial licensing and for each subsequent license renewal. The
1011 fees shall be determined annually and shall represent department

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1012 costs associated with enforcement of the provisions of this part
1013 ~~chapter~~.

1014 (2) Fees collected under the provisions of this part
1015 ~~chapter~~ shall be deposited into the General Inspection Trust
1016 Fund and shall be used to defray expenses in the administration
1017 of this part ~~chapter~~.

1018 Section 28. Subsection (2) of section 487.046, Florida
1019 Statutes, is amended to read:

1020 487.046 Application; licensure.--

1021 (2) If the department finds the applicant qualified in the
1022 classification for which the applicant has applied, and if the
1023 applicant applying for a license to engage in aerial application
1024 of pesticides has met all of the requirements of the Federal
1025 Aviation Agency and the Department of Transportation of this
1026 state to operate the equipment described in the application and
1027 has shown proof of liability insurance or posted a surety bond
1028 in an amount to be set forth by rule of the department, the
1029 department shall issue a certified applicator's license, limited
1030 to the classifications for which the applicant is qualified. The
1031 license shall expire as required by rules promulgated under this
1032 part ~~chapter~~, unless it has been revoked or suspended by the
1033 department prior to expiration, for cause as provided in this
1034 part ~~chapter~~. The license or authorization card issued by the
1035 department verifying licensure shall be kept on the person of
1036 the licensee while performing work as a licensed applicator.

1037 Section 29. Section 487.047, Florida Statutes, is amended
1038 to read:

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1039 487.047 Nonresident license; reciprocal agreement;
1040 authorized purchase.--

1041 (1) The department may waive all or part of the
1042 examination requirements provided for in this part ~~chapter~~ on a
1043 reciprocal basis with any other state or agency, or an Indian
1044 tribe, that has substantially the same or better standards.

1045 (2) Any nonresident applying for a license under this part
1046 ~~chapter~~ to operate in the state shall file a Designation of
1047 Registered Agent naming the Secretary of State as the agent of
1048 the nonresident, upon whom process may be served in the event of
1049 any suit against the nonresident. The designation shall be
1050 prepared on a form provided by the department and shall render
1051 effective the jurisdiction of the courts of this state over the
1052 nonresident applicant. However, any nonresident who has a duly
1053 appointed registered agent upon whom process may be served as
1054 provided by law shall not be required to designate the Secretary
1055 of State as registered agent. The Secretary of State shall be
1056 allowed the registered-agent fees as provided by law for
1057 designating registered agents. The department shall be furnished
1058 with a copy of the designation of the Secretary of State or of a
1059 registered agent which is certified by the Secretary of State.
1060 The Secretary of State shall notify the department of any
1061 service of process it receives as registered agent for persons
1062 licensed under this part ~~chapter~~.

1063 (3) Restricted-use pesticides may be purchased by any
1064 person who holds a valid applicator's license or who holds a
1065 valid purchase authorization card issued by the department or by
1066 a licensee under chapter 482 or chapter 388. A nonlicensed

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1067 person may apply restricted-use pesticides under the direct
1068 supervision of a licensed applicator. An applicator's license
1069 shall be issued by the department on a form supplied by it in
1070 accordance with the requirements of this part ~~chapter~~.

1071 Section 30. Subsection (1) of section 487.049, Florida
1072 Statutes, is amended to read:

1073 487.049 Renewal; late fee; recertification.--

1074 (1) The department shall require renewal of a certified
1075 applicator's license at 4-year intervals from the date of
1076 issuance. If the application for renewal of any license provided
1077 for in this part ~~chapter~~ is not filed on time, a late fee shall
1078 be assessed not to exceed \$50. However, the penalty shall not
1079 apply if the renewal application is filed within 60 days after
1080 the renewal date, provided the applicant furnishes an affidavit
1081 certifying that he or she has not engaged in business subsequent
1082 to the expiration of the license for a period not exceeding 60
1083 days. A license may be renewed without taking another
1084 examination unless the department determines that new knowledge
1085 related to the classification for which the applicant has
1086 applied makes a new examination necessary; however, the
1087 department may require the applicant to provide evidence of
1088 continued competency, as determined by rule. If the license is
1089 not renewed within 60 days after ~~of~~ the expiration date, then
1090 the licensee may again be required to take another examination,
1091 unless there is some unavoidable circumstance which results in
1092 the delay of the renewal of any license issued under this part
1093 ~~chapter~~ which was not under the applicant's control.

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1094 Section 31. Paragraph (b) of subsection (1) and subsection
1095 (2) of section 487.051, Florida Statutes, are amended to read:

1096 487.051 Administration; rules; procedure.--

1097 (1) The department may by rule:

1098 (b) Establish procedures for the taking and handling of
1099 samples and establish tolerances and deficiencies where not
1100 specifically provided for in this part ~~chapter~~; assess
1101 penalties; and prohibit the sale or use of pesticides or devices
1102 shown to be detrimental to human beings, the environment, or
1103 agriculture or to be otherwise of questionable value.

1104 (2) The department is authorized to adopt by rule the
1105 primary standards established by the United States Environmental
1106 Protection Agency with respect to pesticides. If the provisions
1107 of this part ~~chapter~~ are preempted in part by federal law, those
1108 provisions not preempted shall apply. This part ~~chapter~~ is
1109 intended as comprehensive and exclusive regulation of pesticides
1110 in this state. Except as provided in chapters 373, 376, 388,
1111 403, and 482, or as otherwise provided by law, no agency,
1112 commission, department, county, municipality, or other political
1113 subdivision of the state may adopt laws, regulations, rules, or
1114 policies pertaining to pesticides, including their registration,
1115 packaging, labeling, distribution, sale, or use, except that
1116 local jurisdictions may adopt or enforce an ordinance pertaining
1117 to pesticides if that ordinance is in the area of occupational
1118 license taxes, building and zoning regulations, disposal or
1119 spillage of pesticides within a water well zone, or pesticide
1120 safety regulations relating to containment at the storage site.

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1121 Section 32. Subsection (4) of section 487.0615, Florida
1122 Statutes, is amended to read:

1123 487.0615 Pesticide Review Council.--

1124 (4) The council is defined as a "substantially interested
1125 person" and has standing under chapter 120 in any proceeding
1126 conducted by the department relating to the registration of a
1127 pesticide under this part ~~chapter~~. The standing of the council
1128 shall in no way prevent individual members of the council from
1129 exercising standing in these matters.

1130 Section 33. Section 487.071, Florida Statutes, is amended
1131 to read:

1132 487.071 Enforcement, inspection, sampling, and analysis.--

1133 (1) The department is authorized to enter upon any public
1134 or private premises or carrier where pesticides are known or
1135 thought to be distributed, sold, offered for sale, held, stored,
1136 or applied, during regular business hours in the performance of
1137 its duties relating to pesticides and records pertaining to
1138 pesticides. No person shall deny or refuse access to the
1139 department when it seeks to enter upon any public or private
1140 premises or carrier during business hours in performance of its
1141 duties under this part ~~chapter~~.

1142 (2) The department is authorized and directed to sample,
1143 test, inspect, and make analyses of pesticides sold, offered for
1144 sale, distributed, or used within this state, at a time and
1145 place and to such an extent as it may deem necessary, to
1146 determine whether the pesticides or persons exercising control
1147 over the pesticides are in compliance with the provisions of

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1148 | this part ~~chapter~~, the rules adopted under this part ~~chapter~~,
1149 | and the provisions of the pesticide label or labeling.

1150 | (3) The official analysis shall be made from the official
1151 | sample. A sealed and identified sample, herein called "official
1152 | check sample" shall be kept until the analysis on the official
1153 | sample is completed. However, the registrant may obtain upon
1154 | request a portion of the official sample. Upon completion of the
1155 | analysis of the official sample, a true copy of the certificate
1156 | of analysis shall be mailed to the registrant of the pesticide
1157 | from whom the official sample was taken and also to the dealer
1158 | or agent, if any, and consumer, if known. If the official
1159 | analysis conforms with the provisions of this part ~~chapter~~, the
1160 | official check sample may be destroyed. If the official analysis
1161 | does not conform with the provisions of this part ~~chapter~~, the
1162 | rules adopted under this part ~~chapter~~, and the provisions of the
1163 | pesticide label or labeling, the official check sample shall be
1164 | retained for a period of 90 days from the date of the
1165 | certificate of analysis of the official sample. If within that
1166 | time the registrant of the pesticide from whom the official
1167 | sample was taken makes demand for analysis by a referee chemist,
1168 | a portion of the official check sample sufficient for analysis
1169 | shall be sent to a referee chemist who is mutually acceptable to
1170 | the department and the registrant for analysis at the expense of
1171 | the registrant. Upon completion of the analysis, the referee
1172 | chemist shall forward to the department and to the registrant a
1173 | certificate of analysis bearing a proper identification mark or
1174 | number; and such certificate of analysis shall be verified by an
1175 | affidavit of the person or laboratory making the analysis. If

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1176 the certificate of analysis checks within 3 percent of the
1177 department's analysis on each active ingredient for which
1178 analysis was made, the mean average of the two analyses shall be
1179 accepted as final and binding on all concerned. However, if the
1180 referee's certificate of analysis shows a variation of greater
1181 than 3 percent from the department's analysis in any one or more
1182 of the active ingredients for which an analysis was made, upon
1183 demand of either the department or the registrant from whom the
1184 official sample was taken, a portion of the official check
1185 sample sufficient for analysis shall be submitted to a second
1186 referee chemist who is mutually acceptable to the department and
1187 the registrant, at the expense of the party or parties
1188 requesting the referee analysis. Upon completion of the
1189 analysis, the second referee chemist shall make a certificate
1190 and report as provided in this subsection for the first referee
1191 chemist. The mean average of the two analyses nearest in
1192 conformity shall be accepted as final and binding on all
1193 concerned. If no demand is made for an analysis by a second
1194 referee chemist, the department's certificate of analysis shall
1195 be accepted as final and binding on all concerned.

1196 (4) If a pesticide or device fails to comply with the
1197 provisions of this part ~~chapter~~ with reference to the ingredient
1198 statement reflecting the composition of the product, as required
1199 on the registration and labeling, and the department
1200 contemplates possible criminal proceedings against the person
1201 responsible because of this violation, the department shall,
1202 after due notice, accord the person an informal hearing or an
1203 opportunity to present evidence and opinions, either orally or

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1204 in writing, with regard to such contemplated proceedings. If in
1205 the opinion of the department the facts warrant, the department
1206 may refer the facts to the state attorney for the county in
1207 which the violation occurred, with a copy of the results of the
1208 analysis or the examination of such article; provided that
1209 nothing in this part ~~chapter~~ shall be construed as requiring the
1210 department to report for prosecution minor violations whenever
1211 it believes that the public interest will be subserved by a
1212 suitable notice of warning in writing.

1213 (5) It shall be the duty of each state attorney to whom
1214 any such violation is reported to cause appropriate proceedings
1215 to be instituted and prosecuted in a court of competent
1216 jurisdiction without delay.

1217 (6) The department shall, by publication in such manner as
1218 it may prescribe, give notice of all judgments entered in
1219 actions instituted under the authority of this part ~~chapter~~.

1220 (7)(a) The department may analyze pesticide samples upon
1221 request in a manner consistent with this part ~~chapter~~.

1222 (b) The department shall establish by rule a fee schedule
1223 for pesticide samples analyzed upon request. The fees shall be
1224 sufficient to cover the costs to the department for taking the
1225 samples and performing the analysis. However, no fee shall
1226 exceed \$400 per test.

1227 (c) The department shall keep separate records with
1228 respect to requested pesticide analyses, including the pesticide
1229 analyzed, tests performed, fees collected, the name and address
1230 of the person who requested the analysis, and the name and
1231 address of the registrant.

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1232 (d) All fees collected pursuant to this subsection shall
1233 be deposited into the General Inspection Trust Fund and shall be
1234 used by the department to implement this subsection.

1235 (e) In addition to any other penalty provided by this part
1236 ~~chapter~~, the registrant of any pesticide found to be
1237 adulterated, misbranded, or otherwise deficient shall reimburse
1238 the person requesting the pesticide analysis under this
1239 subsection for all fees assessed by and paid to the department.

1240 Section 34. Subsections (2), (3), and (4) of section
1241 487.081, Florida Statutes, are amended to read:

1242 487.081 Exemptions.--

1243 (2) No article shall be deemed in violation of this part
1244 ~~chapter~~ when intended solely for export to a foreign country and
1245 when prepared or packed according to the specifications or
1246 directions of the purchaser.

1247 (3) Notwithstanding any other provision of this part
1248 ~~chapter~~, registration required under this part ~~chapter~~ is not
1249 required in the case of a pesticide stored or shipped from one
1250 manufacturing plant within this state to another manufacturing
1251 plant within this state operated by the same person.

1252 (4) Nothing in this part ~~chapter~~ shall be construed to
1253 apply to persons duly licensed or certified under chapter 388 or
1254 chapter 482 performing any pest control or other operation for
1255 which they are licensed or certified under those chapters.

1256 Section 35. Subsection (2) of section 487.091, Florida
1257 Statutes, is amended to read:

1258 487.091 Tolerances, deficiencies, and penalties.--

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1259 (2) If a pesticide is found by analysis to be deficient in
1260 an active ingredient beyond the tolerance as provided in this
1261 part chapter, the registrant is subject to a penalty for the
1262 deficiency, not to exceed \$10,000 per violation. However, no
1263 penalty shall be assessed when the official sample was taken
1264 from a pesticide that was in the possession of a consumer for
1265 more than 45 days from the date of purchase by that consumer, or
1266 when the product label specifies that the product should be used
1267 by an expiration date that has passed. Procedures for assessing
1268 penalties shall be established by rule, based on the degree of
1269 the deficiency. Penalties assessed shall be paid to the consumer
1270 or, in the absence of a known consumer, the department. If the
1271 penalty is not paid within the prescribed period of time as
1272 established by rule, the department may deny, suspend, or revoke
1273 the registration of any pesticide.

1274 Section 36. Section 487.101, Florida Statutes, is amended
1275 to read:

1276 487.101 Stop-sale, stop-use, removal, or hold orders.--

1277 (1) When a pesticide or device is being offered or exposed
1278 for sale, used, or held in violation of any of the provisions of
1279 this part chapter, the department may issue and enforce a stop-
1280 sale, stop-use, removal, or hold order, in writing, to the owner
1281 or custodian of the pesticide or device, ordering that the
1282 pesticide or device be held at a designated place until the part
1283 chapter has been complied with and the pesticide or device is
1284 released, in writing, by the department or the violation has
1285 been disposed of by court order.

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1286 (2) The written notice is warning to all persons,
1287 including, but not limited to, the owner or custodian of the
1288 pesticide or the owner's or custodian's agents or employees, to
1289 scrupulously refrain from moving, bothering, altering, or
1290 interfering with the pesticide or device or from altering,
1291 defacing, or in any way interfering with the written notice or
1292 permitting the same to be done. The willful violation of these
1293 provisions is a misdemeanor, subjecting the violator to the
1294 penalty provisions of this part ~~chapter~~.

1295 (3) The department shall release the pesticide or device
1296 under a stop-sale, stop-use, removal, or hold order when the
1297 owner or custodian complies with the provisions of this part
1298 ~~chapter~~.

1299 (4) The owner or custodian, with authorization and
1300 supervision of the department, may relabel the pesticide or
1301 device so that the label will conform to the product, or
1302 transfer and return the product to the manufacturer or supplier
1303 for the purpose of bringing the product in compliance with the
1304 provisions of this part ~~chapter~~.

1305 Section 37. Subsection (1) of section 487.111, Florida
1306 Statutes, is amended to read:

1307 487.111 Seizure, condemnation, and sale.--

1308 (1) Any lot of pesticide or device not in compliance with
1309 the provisions of this part ~~chapter~~ is subject to seizure on
1310 complaint of the department to the circuit court in the county
1311 in which the pesticide or device is located. In the event the
1312 court finds the pesticide or device in violation of this part
1313 ~~chapter~~ and orders it condemned, it shall be disposed of as the

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1314 court may direct; provided that in no instance shall the
1315 disposition of the pesticide or device be ordered by the court
1316 without first giving the owner or custodian an opportunity to
1317 apply to the court for release of the pesticide or device or for
1318 permission to process or relabel it to bring it into compliance
1319 with this part ~~chapter~~.

1320 Section 38. Section 487.13, Florida Statutes, is amended
1321 to read:

1322 487.13 Cooperation.--The department is authorized and
1323 empowered to cooperate with and enter into agreements with any
1324 other agency of this state, the United States Department of
1325 Agriculture, the United States Environmental Protection Agency,
1326 and any other state or federal agency for the purpose of
1327 carrying out the provisions of this part ~~chapter~~ and securing
1328 uniformity of regulations.

1329 Section 39. Section 487.156, Florida Statutes, is amended
1330 to read:

1331 487.156 Governmental agencies.--All governmental agencies
1332 shall be subject to the provisions of this part ~~chapter~~ and
1333 rules adopted under this part ~~chapter~~. Public applicators using
1334 or supervising the use of restricted-use pesticides shall be
1335 subject to examination as provided in s. 487.044.

1336 Section 40. Subsection (1) of section 487.159, Florida
1337 Statutes, is amended to read:

1338 487.159 Damage or injury to property, animal, or person;
1339 mandatory report of damage or injury; time for filing; failure
1340 to file.--

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1341 (1) The person claiming damage or injury to property,
1342 animal, or human beings from application of a pesticide shall
1343 file with the department a written statement claiming damages,
1344 on a form prescribed by the department, within 48 hours after
1345 the damage or injury becomes apparent. The statement shall
1346 contain, but shall not be limited to, the name of the person
1347 responsible for the application of the pesticide, the name of
1348 the owner or lessee of the land on which the crop is grown and
1349 for which the damages are claimed, and the date on which it is
1350 alleged that the damages occurred. The department shall
1351 investigate the alleged damages and notify all concerned parties
1352 of its findings. If the findings reveal a violation of the
1353 provisions of this part ~~chapter~~, the department shall determine
1354 an appropriate penalty, as provided in this part ~~chapter~~. The
1355 filing of a statement or the failure to file such a statement
1356 need not be alleged in any complaint which might be filed in a
1357 court of law, and the failure to file the statement shall not be
1358 considered any bar to the maintenance of any criminal or civil
1359 action.

1360 Section 41. Section 487.161, Florida Statutes, is amended
1361 to read:

1362 487.161 Exemptions, nonagricultural pest control and
1363 research.--

1364 (1) Any person duly licensed or certified under chapter
1365 482, or under the supervision of chapter 388, is exempted from
1366 the licensing provisions of this part ~~chapter~~.

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1367 (2) The use of the antibiotic oxytetracycline
1368 hydrochloride for the purpose of controlling lethal yellowing is
1369 exempted from the licensing provisions of this part ~~chapter~~.

1370 (3) The personnel of governmental, university, or
1371 industrial research agencies are exempted from the provisions of
1372 this part ~~chapter~~ when doing applied research within a
1373 laboratory, but shall comply with all the provisions of this
1374 part ~~chapter~~ when applying restricted-use pesticides to
1375 experimental or demonstration plots.

1376 Section 42. Section 487.163, Florida Statutes, is amended
1377 to read:

1378 487.163 Information; interagency cooperation.--

1379 (1) The department may, in cooperation with the University
1380 of Florida or other agencies of government, publish information
1381 and conduct short courses of instruction in the safe use and
1382 application of pesticides for the purpose of carrying out the
1383 provisions of this part ~~chapter~~.

1384 (2) The department may cooperate or enter into formal
1385 agreements with any other agency or educational institution of
1386 this state or its subdivisions or with any agency of any other
1387 state or of the Federal Government for the purpose of carrying
1388 out the provisions of this part ~~chapter~~ and of securing
1389 uniformity of regulations.

1390 Section 43. Subsections (1), (2), and (3) of section
1391 487.171, Florida Statutes, are amended to read:

1392 487.171 Classification of antifouling paint containing
1393 organotin compounds as restricted-use pesticides; prohibition of
1394 distribution and sale.--

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1395 (1) The department shall classify antifouling paints
1396 containing organotin compounds having an acceptable release rate
1397 as restricted-use pesticides subject to the requirements of this
1398 part ~~chapter~~. Antifouling paints containing organotin having
1399 acceptable release rates and sold in spray cans of 16 ounces
1400 avoirdupois weight or less for outboard motor or lower unit use
1401 are exempt from the restricted-use pesticide classification
1402 requirement.

1403 (2) The department shall initiate action under chapter
1404 120, to deny or cancel the registration of antifouling paints
1405 containing organotin compounds which do not have an acceptable
1406 release rate or do not meet other criteria established by the
1407 department in accordance with this part ~~chapter~~.

1408 (3) Distribution, sale, and use of antifouling paints
1409 containing organotin compounds with acceptable release rates
1410 shall be limited to dealers and applicators licensed by the
1411 department in accordance with this part ~~chapter~~, to distribute,
1412 sell, or use restricted-use pesticides. Such paint may be
1413 applied only by licensed applicators and may be applied only to
1414 vessels which exceed 25 meters in length or which have aluminum
1415 hulls.

1416 Section 44. Section 487.175, Florida Statutes, is amended
1417 to read:

1418 487.175 Penalties; administrative fine; injunction.--

1419 (1) In addition to any other penalty provided in this part
1420 ~~chapter~~, when the department finds any person, applicant, or
1421 licensee has violated any provision of this part ~~chapter~~ or rule

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1422 adopted under this part ~~chapter~~, it may enter an order imposing
1423 any one or more of the following penalties:

1424 (a) Denial of an application for licensure.

1425 (b) Revocation or suspension of a license.

1426 (c) Issuance of a warning letter.

1427 (d) Placement of the licensee on probation for a specified
1428 period of time and subject to conditions the department may
1429 specify by rule, including requiring the licensee to attend
1430 continuing education courses, to demonstrate competency through
1431 a written or practical examination, or to work under the direct
1432 supervision of another licensee.

1433 (e) Imposition of an administrative fine not to exceed
1434 \$10,000 for each violation. When imposing any fine under this
1435 paragraph, the department shall consider the degree and extent
1436 of harm caused by the violation, the cost of rectifying the
1437 damage, the amount of money the violator benefited from by
1438 noncompliance, whether the violation was committed willfully,
1439 and the compliance record of the violator.

1440 (2) Any person who violates any provision of this part
1441 ~~chapter~~ or rules adopted pursuant thereto commits a misdemeanor
1442 of the second degree and upon conviction is punishable as
1443 provided in s. ss. 775.082 or s. and 775.083. For a subsequent
1444 violation, such person commits a misdemeanor of the first degree
1445 and upon conviction is punishable as provided in s. ss. 775.082
1446 or s. and 775.083.

1447 (3) In addition to the remedies provided in this part
1448 ~~chapter~~ and notwithstanding the existence of any adequate remedy
1449 at law, the department may bring an action to enjoin the

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1450 violation or threatened violation of any provision of this part
1451 ~~chapter~~, or rule adopted under this part ~~chapter~~, in the circuit
1452 court of the county in which the violation occurred or is about
1453 to occur. Upon the department's presentation of competent and
1454 substantial evidence to the court of the violation or threatened
1455 violation, the court shall immediately issue the temporary or
1456 permanent injunction sought by the department. The injunction
1457 shall be issued without bond. A single act in violation of any
1458 provision of this part ~~chapter~~ shall be sufficient to authorize
1459 the issuance of an injunction.

1460 Section 45. Subsection (1) of section 482.242, Florida
1461 Statutes, is amended to read:

1462 482.242 Preemption.--

1463 (1) This chapter is intended as comprehensive and
1464 exclusive regulation of pest control in this state. The
1465 provisions of this chapter preempt to the state all regulation
1466 of the activities and operations of pest control services,
1467 including the pesticides used pursuant to labeling and
1468 registration approved under part I of chapter 487. No local
1469 government or political subdivision of the state may enact or
1470 enforce an ordinance that regulates pest control, except that
1471 the preemption in this section does not prohibit a local
1472 government or political subdivision from enacting an ordinance
1473 regarding any of the following:

1474 (a) Local occupational licenses adopted pursuant to
1475 chapter 205.

1476 (b) Land development regulations adopted pursuant to
1477 chapter 163 which include regulation of any aspect of

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1478 development, including a subdivision, building construction,
1479 sign regulation or any other regulation concerning the
1480 development of land, or landscaping or tree protection
1481 ordinances which do not include pesticide application
1482 restrictions.

1483 (c) Regulations that:

1484 1. Require, for multicomplex dwellings in excess of 10
1485 units, annual termite inspections for termite activity or
1486 damage, including Formosan termites, which must be performed by
1487 a person licensed under this chapter.

1488 2. Require pest control treatments of structures that have
1489 termite activity or damage which must be performed by a person
1490 licensed under this chapter.

1491 3. Require property owners or other persons to obtain
1492 inspections or pest control treatments performed by a person
1493 licensed under this chapter.

1494
1495 An ordinance by a local government or political subdivision
1496 which requires an annual inspection or pest control treatment
1497 must conform to current law.

1498 (d) Protection of wellhead protection areas and high
1499 recharge areas.

1500 (e) Hazardous materials reporting as set forth in part II
1501 of chapter 252, storage, and containment including as relating
1502 to stormwater management.

1503 (f) Hazardous material unlawful discharge and disposal.

1504 (g) Hazardous materials remediation.

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1505 Section 46. Section 487.2011, Florida Statutes, is created
1506 to read:

1507 487.2011 Popular name; administration.--This part may be
1508 known by the popular name the "Florida Agricultural Worker
1509 Safety Act" and shall be administered by the Department of
1510 Agriculture and Consumer Services.

1511 Section 47. Section 487.2021, Florida Statutes, is created
1512 to read:

1513 487.2021 Legislative intent.--It is the intent of the
1514 Legislature to ensure that agricultural workers employed in the
1515 state receive protection from agricultural pesticides. The
1516 Legislature intends to ensure that agricultural workers be given
1517 information concerning agricultural pesticides.

1518 Section 48. Section 487.2031, Florida Statutes, is created
1519 to read:

1520 487.2031 Definitions.--For the purposes of this part, the
1521 term:

1522 (1) "Agricultural employer" means any person who hires or
1523 contracts for the services of workers to perform activities
1524 related to the production of agricultural plants or any person
1525 who is an owner of, or responsible for, the management or
1526 condition of an agricultural establishment that uses such
1527 workers.

1528 (2) "Agricultural establishment" means any farm, forest,
1529 nursery, or greenhouse.

1530 (3) "Agricultural plant" means any plant grown or
1531 maintained for commercial or research purposes and includes, but

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1532 is not limited to, food, feed, fiber plants, trees, turfgrass,
1533 flowers, shrubs, ornamentals, and seedlings.

1534 (4) "Department" means the Department of Agriculture and
1535 Consumer Services.

1536 (5) "Designated representative" means any organization or
1537 person to whom a worker gives written authorization to exercise
1538 the right to request the agricultural pesticide information
1539 pursuant to this part.

1540 (6) "Fact sheet" means an agricultural pesticide fact
1541 sheet approved by the state or federal government that provides
1542 information about the impacts of the use of an agricultural
1543 pesticide.

1544 (7) "Material safety data sheet" means written or printed
1545 material concerning an agricultural pesticide that sets forth
1546 the following information:

1547 (a) The chemical name and the common name of the
1548 agricultural pesticide.

1549 (b) The hazards or other risks in the use of the
1550 agricultural pesticide, including:

1551 1. The potential for fire, explosions, corrosivity, and
1552 reactivity.

1553 2. The known acute health effects and chronic health
1554 effects of exposure to the agricultural pesticide, including
1555 those medical conditions that are generally recognized as being
1556 aggravated by exposure to the agricultural pesticide.

1557 3. The primary routes of entry and symptoms of
1558 overexposure.

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1559 (c) The proper handling practices, necessary personal
1560 protective equipment, and other proper or necessary safety
1561 precautions in circumstances that involve the use of or exposure
1562 to the agricultural pesticide, including appropriate emergency
1563 treatment in case of overexposure.

1564 (d) The emergency procedures for spills, fire, disposal,
1565 and first aid.

1566 (e) A description of the known specific potential health
1567 risks posed by the agricultural pesticide, which is written in
1568 lay terms and is intended to alert any person who reads the
1569 information.

1570 (f) The year and month, if available, that the information
1571 was compiled and the name, address, and emergency telephone
1572 number of the manufacturer responsible for preparing the
1573 information.

1574 (8) "Retaliatory action" means an action, such as
1575 dismissal, demotion, harassment, blacklisting with other
1576 employers, reducing pay or work hours, or taking away company
1577 housing, that is taken by any agricultural employer against a
1578 worker who exercises any right under the provisions of the
1579 United States Environmental Protection Agency Worker Protection
1580 Standard, 40 C.F.R. s. 1707(b), or this part.

1581 (9) "Trainer" means any person who is qualified to train
1582 workers under the pesticide safety training requirements of the
1583 United States Environmental Protection Agency Worker Protection
1584 Standard, 40 C.F.R. s. 170.130.

1585 (10) "Worker" means any person, including a farmworker or
1586 a self-employed person, who receives any type of compensation

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1587 for employment that involves tasks relating to the production of
1588 agricultural plants on an agricultural establishment. The term
1589 "worker" does not include any person employed by a commercial
1590 pesticide handling establishment to perform tasks as a crop
1591 advisor.

1592 Section 49. Section 487.2041, Florida Statutes, is created
1593 to read:

1594 487.2041 Enforcement of federal worker protection
1595 regulations.--The department shall, to the extent that resources
1596 are available, continue to operate under the United States
1597 Environmental Protection Agency regulations regarding the
1598 Labeling Requirement for Pesticides and Devices, 40 C.F.R. part
1599 156, and the Worker Protection Standard, 40 C.F.R. part 170,
1600 which the department adopted by rule during the 1995-1996 fiscal
1601 year and published in the Florida Administrative Code. Any
1602 provision of this part not preempted by federal law shall
1603 continue to apply.

1604 Section 50. Section 487.2051, Florida Statutes, is created
1605 to read:

1606 487.2051 Availability of agricultural pesticide
1607 information to workers and medical personnel.--

1608 (1) An agricultural employer shall make available
1609 agricultural pesticide information concerning any agricultural
1610 pesticide to any worker:

1611 (a) Who enters an agricultural-pesticide-treated area on
1612 an agricultural establishment where:

1613 1. An agricultural pesticide has been applied within 30
1614 days of that entry; or

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1615 2. A restricted-entry interval has been in effect; or
1616 (b) Who may be exposed to the agricultural pesticide
1617 during normal conditions of use or in a foreseeable emergency.

1618 (2) The agricultural pesticide information provided
1619 pursuant to subsection (1) must be in the form of a fact sheet
1620 or a material safety data sheet. The agricultural employer shall
1621 provide a written copy of the information provided pursuant to
1622 subsection (1) within 2 working days after a request for the
1623 information by a worker or a designated representative. In the
1624 case of a pesticide-related medical emergency, the agricultural
1625 employer shall provide a written copy of the information
1626 promptly upon the request of the worker, the designated
1627 representative, or medical personnel treating the worker.

1628 (3) Upon the initial purchase of a product and with the
1629 first purchase after the material safety data sheet is updated,
1630 the distributor, manufacturer, or importer of agricultural
1631 pesticides shall obtain or develop and provide each direct
1632 purchaser of an agricultural pesticide with a material safety
1633 data sheet. If the material safety data sheet or fact sheet for
1634 the agricultural pesticide is not available when the
1635 agricultural pesticide is purchased, the agricultural employer
1636 shall take appropriate and timely steps to obtain the material
1637 safety data sheet or fact sheet from the distributor, the
1638 manufacturer, the department, a federal agency, or another
1639 distribution source.

1640 (4) The department shall produce and make available to a
1641 trainer a one-page general agricultural pesticide safety sheet.
1642 The safety sheet must be in a language understandable to the

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1643 worker and must include, but need not be limited to, illustrated
1644 instructions on preventing agricultural pesticide exposure and
1645 toll-free telephone numbers to the Florida Poison Control
1646 Centers. The trainer shall provide the safety sheet to the
1647 worker pursuant to the United States Environmental Protection
1648 Agency Worker Protection Standard, 40 C.F.R. s. 170.130.

1649 Section 51. Section 487.2061, Florida Statutes, is created
1650 to read:

1651 487.2061 Prohibited acts.--Any person covered by this part
1652 may not:

1653 (1) Fail to provide agricultural pesticide information as
1654 required in this part; or

1655 (2) Take retaliatory action.

1656 Section 52. Section 487.2071, Florida Statutes, is created
1657 to read:

1658 487.2071 Penalties against violators; worker relief;
1659 monitoring complaints of retaliation.--

1660 (1) Penalties set forth in this part shall be applied to
1661 any person who violates this part. A persons who violates this
1662 part is subject to federal penalties as provided in the United
1663 States Environmental Protection Agency Worker Protection
1664 Standard, 40 C.F.R. s. 170.9(b).

1665 (2) A worker who has been subject to retaliatory action
1666 and seeks relief under this section may file a complaint with
1667 the department.

1668 (3) In any action brought pursuant to this section that
1669 involves retaliatory action, if the retaliatory action is
1670 predicated on the disclosure by a worker of an illegal action,

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1671 policy, or practice of any person covered by this part to an
1672 appropriate governmental agency, the worker may not be required
1673 to show that the disclosure was under oath or in writing or that
1674 the worker notified the employer in writing of the illegal
1675 action, policy, or practice.

1676 (4) The department shall monitor all complaints of
1677 retaliation that it receives and report its findings to the
1678 President of the Senate and the Speaker of the House of
1679 Representatives on or before October 1, 2008. The report shall
1680 include the number of such complaints received, the
1681 circumstances surrounding the complaints, and the actions taken
1682 concerning the complaints.

1683 Section 53. Paragraph (x) of subsection (1) of section
1684 500.03, Florida Statutes, is amended to read:

1685 500.03 Definitions; construction; applicability.--

1686 (1) For the purpose of this chapter, the term:

1687 (x) "Pesticide chemical" means any substance which, alone,
1688 in chemical combination, or in formulation with one or more
1689 other substances is a "pesticide" within the meaning of the
1690 Florida Pesticide Law, part I of chapter 487, and which is used
1691 in the production, storage, or transportation of raw
1692 agricultural commodities.

1693 Section 54. Subsections (1) and (6) of section 570.44,
1694 Florida Statutes, are amended to read:

1695 570.44 Division of Agricultural Environmental Services;
1696 powers and duties.--The duties of the Division of Agricultural
1697 Environmental Services include, but are not limited to:

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1698 (1) Inspecting and drawing samples of: commercial feeds
1699 offered for sale in this state and enforcing those provisions of
1700 chapter 580 authorized by the department; seeds offered for sale
1701 in this state and enforcing those provisions of chapter 578
1702 authorized by the department; certified seed grown in this
1703 state; fertilizers offered for sale in this state and enforcing
1704 those provisions of chapter 576 authorized by the department;
1705 and pesticides offered for sale in this state, and soil and
1706 water in this state for the presence of pesticides, and
1707 enforcing those provisions of part I of chapter 487 authorized
1708 by the department.

1709 (6) Analyzing samples of pesticide formulations offered
1710 for sale in this state and tank mix, soil, water, and other
1711 environmental samples related to pesticide use investigations,
1712 as required under part I of chapter 487.

1713 Section 55. Subsection (7) of section 440.16, Florida
1714 Statutes, is amended to read:

1715 440.16 Compensation for death.--

1716 ~~(7) Compensation under this chapter to aliens not~~
1717 ~~residents (or about to become nonresidents) of the United States~~
1718 ~~or Canada shall be the same in amount as provided for residents,~~
1719 ~~except that dependents in any foreign country shall be limited~~
1720 ~~to surviving spouse and child or children, or if there be no~~
1721 ~~surviving spouse or child or children, to surviving father or~~
1722 ~~mother whom the employee has supported, either wholly or in~~
1723 ~~part, for the period of 1 year prior to the date of the injury,~~
1724 ~~and except that the judge of compensation claims may, at the~~
1725 ~~option of the judge of compensation claims, or upon the~~

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1726 ~~application of the insurance carrier, commute all future~~
1727 ~~installments of compensation to be paid to such aliens by paying~~
1728 ~~or causing to be paid to them one half of the commuted amount of~~
1729 ~~such future installments of compensation as determined by the~~
1730 ~~judge of compensation claims, and provided further that~~
1731 ~~compensation to dependents referred to in this subsection shall~~
1732 ~~in no case exceed \$75,000.~~

1733 Section 56. The Division of Statutory Revision is
1734 requested to designate sections 487.011-487.175, Florida
1735 Statutes, as part I of chapter 487, entitled the "Florida
1736 Pesticide Law," and sections 487.2011-487.2071, Florida
1737 Statutes, as created by this act, as part II of that chapter,
1738 entitled the "Florida Agricultural Worker Safety Act."

1739 Section 57. This act shall take effect July 1, 2004.

1740
1741 ===== T I T L E A M E N D M E N T =====

1742 Remove the entire title and insert:

1743 A bill to be entitled
1744 An act relating to agricultural and migrant labor;
1745 amending s. 381.008, F.S.; revising a definition; amending
1746 s. 381.0086, F.S.; requiring the Department of Health to
1747 adopt rules relating to residential migrant housing;
1748 providing guidelines for the filing of interstate
1749 clearance orders; amending s. 381.0087, F.S.; revising a
1750 provision relating to who may issue certain citations;
1751 requiring the department to provide notice of suspected
1752 violations; amending s. 403.088, F.S.; clarifying a
1753 provision relating to water pollution operation permits;

HOUSE AMENDMENT

Bill No. HB 1307 CS

Amendment No. (for drafter's use only)

1754 amending s. 450.191, F.S.; authorizing and directing the
1755 Executive Office of the Governor to advise and consult on
1756 certain issues relating to migrant and seasonal workers;
1757 directing the office to coordinate enforcement of certain
1758 provisions with the Department of Business and
1759 Professional Regulation; including farm labor contractors
1760 in the enforcement of certain laws; authorizing and
1761 directing the office to cooperate with the Agency for
1762 Workforce Innovation in the recruitment and referral of
1763 migrant workers and certain other laborers; amending s.
1764 450.201, F.S.; renaming the Legislative Commission on
1765 Migrant Labor as the Legislative Commission on Migrant and
1766 Seasonal Labor; providing a deadline for appointments to
1767 the commission; providing a deadline for the commission's
1768 first meeting; amending s. 450.231, F.S.; providing a
1769 deadline for certain reports; amending s. 450.27, F.S.;
1770 providing a popular name; amending s. 450.271, F.S.;
1771 authorizing the department to enter into certain
1772 agreements with the Secretary of Labor of the United
1773 States; amending s. 450.28, F.S.; providing definitions;
1774 amending s. 450.30, F.S.; revising requirements for
1775 retaking examinations for renewal of certificates of
1776 registration; requiring fees for certain programs to be
1777 deposited in the Professional Regulation Trust Fund;
1778 amending s. 450.31, F.S.; providing criteria for issuance
1779 or renewal of certificates of registration; authorizing
1780 payment for certificates of registration by cashier's
1781 check; increasing the application fee for such

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1782 registration; requiring fees to be deposited in the
1783 Professional Regulation Trust Fund; providing criteria for
1784 revocation, suspension, or refusal to issue or renew
1785 certificates of registration; conforming a provision;
1786 providing criteria for permanent revocation or refusal to
1787 issue or renew certificates of registration; authorizing
1788 the department to inspect certain documents upon receipt
1789 and acceptance of a certificate of registration; creating
1790 s. 450.321, F.S.; creating the best practices incentive
1791 program for farm labor contractors; requiring farm labor
1792 contractors to meet certain requirements; restricting the
1793 transfer or unauthorized use of best practices
1794 designations; authorizing the department to enter into
1795 certain partnership agreements; authorizing the department
1796 to revoke certain designations; providing that certain
1797 designations are not department endorsements; limiting
1798 certain civil liability of the department; requiring the
1799 department to establish an incentive program; amending s.
1800 450.33, F.S.; removing department requirements for the
1801 suspension or revocation of farm labor contractors'
1802 certificates of registration; requiring farm labor
1803 contractors to keep certain records; amending s. 450.34,
1804 F.S.; providing certain prohibited acts for farm labor
1805 contractors; amending s. 450.35, F.S.; prohibiting certain
1806 contracts or employment; providing penalties; amending s.
1807 450.37, F.S.; authorizing the department to enter into
1808 agreements with other state agencies for certain purposes;
1809 amending s. 450.38, F.S.; providing civil and criminal

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HOUSE AMENDMENT

Bill No. HB 1307 CS

Amendment No. (for drafter's use only)

1810 penalties for minor and major violations; increasing
1811 certain civil penalties; authorizing payment of certain
1812 civil penalties by cashier's check; removing authorization
1813 to pay certain civil penalties by cash; increasing the
1814 scope of where a complaint may be filed; providing for a
1815 warning to contractors committing minor violations;
1816 providing civil penalties for contractors committing major
1817 violations; creating s. 450.39, F.S.; providing guidelines
1818 for the sale of certain commodities to farmworkers;
1819 providing a definition; amending s. 487.011, F.S.;
1820 providing a popular name; amending ss. 487.012, 487.021,
1821 487.025, 487.031, 487.041, 487.0435, 487.045, 487.046,
1822 487.047, 487.049, 487.051, 487.0615, 487.071, 487.081,
1823 487.091, 487.101, 487.111, 487.13, 487.156, 487.159,
1824 487.161, 487.163, 487.171, and 487.175, F.S.; revising
1825 references to make the "Florida Pesticide Law" part I of
1826 ch. 487, F.S.; amending s. 482.242, F.S.; clarifying a
1827 provision relating to the labeling and registration of
1828 approved pesticides; creating s. 487.2011, F.S., the
1829 "Florida Agricultural Worker Safety Act"; providing for
1830 administration by the Department of Agriculture and
1831 Consumer Services; creating s. 487.2021, F.S.; providing
1832 legislative intent; creating s. 487.2031, F.S.; providing
1833 definitions; creating s. 487.2041, F.S.; providing
1834 enforcement of federal worker protection regulations;
1835 creating s. 487.2051, F.S.; requiring agricultural
1836 employers to make certain pesticide information available;
1837 creating s. 487.2061, F.S.; prohibiting certain acts;

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HOUSE AMENDMENT

Bill No. HB 1307 CS

Amendment No. (for drafter's use only)

1838 creating s. 487.2071, F.S.; providing penalties; requiring
1839 monitoring and reporting of complaints; amending ss.
1840 500.03 and 570.44, F.S.; clarifying provisions relating to
1841 the definition of the term "pesticide chemical" and duties
1842 of the Division of Agricultural Environmental Services,
1843 respectively; amending s. 440.16, F.S.; deleting a
1844 provision relating to compensation paid to dependents of
1845 aliens; directing the Division of Statutory Revision to
1846 designate parts I and II of ch. 487, F.S.; providing an
1847 effective date.

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