

CHAMBER ACTION

1 The Committee on State Administration recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to agricultural and migrant labor;
7 amending s. 381.008, F.S.; revising a definition; amending
8 s. 381.0086, F.S.; requiring the Department of Health to
9 adopt rules relating to residential migrant housing;
10 providing guidelines for the filing of interstate
11 clearance orders; amending s. 381.0087, F.S.; revising a
12 provision relating to who may issue certain citations;
13 requiring the department to provide notice of suspected
14 violations; amending s. 403.088, F.S.; clarifying a
15 provision relating to water pollution operation permits;
16 amending s. 420.507, F.S.; requiring the Florida Housing
17 Finance Corporation to utilize federal and state resources
18 in a certain manner; amending s. 450.191, F.S.;
19 authorizing and directing the Executive Office of the
20 Governor to advise and consult on certain issues relating
21 to migrant workers; directing the office to coordinate
22 enforcement of certain provisions with the Department of
23 Business and Professional Regulation; including farm labor

24 | contractors in the enforcement of certain laws;
25 | authorizing and directing the office to cooperate with the
26 | Agency for Workforce Innovation in the recruitment and
27 | referral of migrant workers and certain other laborers;
28 | amending s. 450.201, F.S.; renaming the Legislative
29 | Commission on Migrant Labor as the Legislative Commission
30 | on Migrant and Seasonal Labor; providing a deadline for
31 | appointments to the commission; providing a deadline for
32 | the commission's first meeting; amending s. 450.211, F.S.;
33 | revising the membership of the commission's advisory
34 | committee; amending s. 450.221, F.S.; conforming
35 | terminology; amending s. 450.231, F.S.; providing a
36 | deadline for certain reports; amending s. 450.261, F.S.;
37 | conforming terminology; amending s. 450.27, F.S.;
38 | providing a popular name; amending s. 450.271, F.S.;
39 | authorizing the department to enter into certain
40 | agreements with the Secretary of Labor of the United
41 | States; amending s. 450.28, F.S.; providing definitions;
42 | amending s. 450.30, F.S.; revising requirements for
43 | retaking examinations for renewal of certificates of
44 | registration; requiring fees for certain programs to be
45 | deposited in the Professional Regulation Trust Fund;
46 | amending s. 450.31, F.S.; providing criteria for issuance
47 | or renewal of certificates of registration; authorizing
48 | payment for certificates of registration by cashier's
49 | check; increasing the application fee for such
50 | registration; requiring fees to be deposited in the
51 | Professional Regulation Trust Fund; providing criteria for

52 | revocation, suspension, or refusal to issue or renew
53 | certificates of registration; conforming a provision;
54 | providing criteria for permanent revocation or refusal to
55 | issue or renew certificates of registration; authorizing
56 | the department to inspect certain documents upon receipt
57 | and acceptance of a certificate of registration; creating
58 | s. 450.321, F.S.; creating the best practices incentive
59 | program for farm labor contractors; requiring farm labor
60 | contractors to meet certain requirements; authorizing the
61 | department to enter into certain partnership agreements;
62 | authorizing the department to revoke certain designations;
63 | prohibiting the unauthorized use of designations; limiting
64 | certain civil liability of the department; requiring the
65 | department to establish an incentive program; amending s.
66 | 450.33, F.S.; removing department requirements for the
67 | suspension or revocation of farm labor contractors'
68 | certificates of registration; requiring farm labor
69 | contractors to keep certain records; amending s. 450.34,
70 | F.S.; providing certain prohibited acts for farm labor
71 | contractors; amending s. 450.35, F.S.; prohibiting certain
72 | contracts or employment; providing a penalty; amending s.
73 | 450.37, F.S.; authorizing the department to enter into
74 | agreements with other state agencies for certain purposes;
75 | amending s. 450.38, F.S.; providing civil and criminal
76 | penalties for minor and major violations; increasing
77 | certain civil penalties; authorizing payment of certain
78 | civil penalties by cashier's check; removing authorization
79 | to pay certain civil penalties by cash; increasing the

80 scope of where a complaint may be filed; providing for a
 81 warning to contractors committing minor violations;
 82 providing civil penalties; authorizing the revocation of
 83 certificates of registration under certain circumstances;
 84 requiring the department to provide notice of suspected
 85 violations; creating s. 450.39, F.S.; providing guidelines
 86 for the sale of certain commodities to farmworkers;
 87 providing penalties; amending s. 487.011, F.S.; providing
 88 a popular name; amending ss. 487.012, 487.021, 487.025,
 89 487.031, 487.041, 487.0435, 487.045, 487.046, 487.047,
 90 487.049, 487.051, 487.0615, 487.071, 487.081, 487.091,
 91 487.101, 487.111, 487.13, 487.156, 487.159, 487.161,
 92 487.163, 487.171, and 487.175, F.S.; revising references
 93 to make the "Florida Pesticide Law" part I of ch. 487,
 94 F.S.; amending s. 482.242, F.S.; clarifying a provision
 95 relating to the labeling and registration of approved
 96 pesticides; creating s. 487.2011, F.S., the "Florida
 97 Agricultural Worker Safety Act"; providing for
 98 administration by the Department of Agriculture and
 99 Consumer Services; creating s. 487.2021, F.S.; providing
 100 legislative intent; creating s. 487.2031, F.S.; providing
 101 definitions; creating s. 487.2041, F.S.; providing
 102 enforcement of federal worker protection regulations;
 103 creating s. 487.2051, F.S.; requiring agricultural
 104 employers to make certain pesticide information available;
 105 creating s. 487.2061, F.S.; prohibiting certain acts;
 106 creating s. 487.2071, F.S.; providing penalties; requiring
 107 monitoring and reporting of complaints; amending ss.

HB 1307 CS

2004
CS

108 500.03 and 570.44, F.S.; clarifying provisions relating to
 109 the definition of the term "pesticide chemical" and duties
 110 of the Division of Agricultural Environmental Services,
 111 respectively; directing the Division of Statutory Revision
 112 to designate parts I and II of ch. 487, F.S.; providing an
 113 effective date.

114

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

116

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

119 381.008 Definitions of terms used in ss. 381.008-
 120 381.00897.--As used in ss. 381.008-381.00897, the following
 121 words and phrases mean:

122 (8) "Residential migrant housing"--A building, structure,
 123 mobile home, barracks, or dormitory, and any combination thereof
 124 on adjacent property which is under the same ownership,
 125 management, or control, and the land appertaining thereto, that
 126 is rented or reserved for occupancy by five or more seasonal or
 127 migrant farmworkers, except:

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

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

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

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

138 Section 2. Subsection (1) of section 381.0086, Florida
139 Statutes, is amended, and subsection (6) is added to said
140 section, to read:

141 381.0086 Rules; variances; penalties.--

142 (1) The department shall adopt rules necessary to protect
143 the health and safety of migrant farmworkers ~~farm workers~~ and
144 other migrant labor camp or residential migrant housing
145 occupants, including rules governing field sanitation
146 facilities. These rules must include definitions of terms,
147 provisions relating to plan review of the construction of new,
148 expanded, or remodeled camps or residential migrant housing,
149 sites, buildings and structures, personal hygiene facilities,
150 lighting, sewage disposal, safety, minimum living space per
151 occupant, bedding, food equipment, food storage and preparation,
152 insect and rodent control, garbage, heating equipment, water
153 supply, maintenance and operation of the camp, housing, or
154 roads, and such other matters as the department finds to be
155 appropriate or necessary to protect the life and health of the
156 occupants. Housing operated by a public housing authority is
157 exempt from the provisions of any administrative rule that
158 conflicts with or is more stringent than the federal standards
159 applicable to the housing.

160 (6) For the purposes of filing an interstate clearance
161 order with the Agency for Workforce Innovation, if the housing

HB 1307 CS

2004
CS

162 is covered by 20 C.F.R. part 654, subpart E, no permanent
 163 structural variance referred to in subsection (2) is allowed.

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

167 381.0087 Enforcement; citations.--

168 (1) Department personnel ~~or crew chief compliance officers~~
 169 ~~employed by the Bureau of Compliance of the Florida Department~~
 170 ~~of Labor and Employment Security~~ may issue citations that
 171 contain an order of correction or an order to pay a fine, or
 172 both, for violations of ss. 381.008-381.00895 or the field
 173 sanitation facility rules adopted by the department when a
 174 violation of those sections or rules is enforceable by an
 175 administrative or civil remedy, or when a violation of those
 176 sections or rules is a misdemeanor of the second degree. A
 177 citation issued under this section constitutes a notice of
 178 proposed agency action. The recipient of a citation for a major
 179 deficiency, as defined by rule of the department, will be given
 180 a maximum of 48 hours to make satisfactory correction or
 181 demonstrate that provisions for correction are satisfactory.

182 (6) Any person who willfully refuses to sign and accept a
 183 citation issued by the department commits ~~or the Department of~~
 184 ~~Labor and Employment Security is guilty of~~ a misdemeanor of the
 185 second degree, punishable as provided in s. 775.082 or s.
 186 775.083.

187 (9) The department shall provide notice of any suspected
 188 violations of any law to the appropriate entity.

HB 1307 CS

2004
CS

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

191 403.088 Water pollution operation permits; conditions.--

192 (1) No person, without written authorization of the
193 department, shall discharge into waters within the state any
194 waste which, by itself or in combination with the wastes of
195 other sources, reduces the quality of the receiving waters below
196 the classification established for them. However, this section
197 shall not be deemed to prohibit the application of pesticides to
198 waters in the state for the control of insects, aquatic weeds,
199 or algae, provided the application is performed pursuant to a
200 program approved by the Department of Health, in the case of
201 insect control, or the department, in the case of aquatic weed
202 or algae control. The department is directed to enter into
203 interagency agreements to establish the procedures for program
204 approval. Such agreements shall provide for public health,
205 welfare, and safety, as well as environmental factors. Approved
206 programs must provide that only chemicals approved for the
207 particular use by the United States Environmental Protection
208 Agency or by the Department of Agriculture and Consumer Services
209 may be employed and that they be applied in accordance with
210 registered label instructions, state standards for such
211 application, and the provisions of the Florida Pesticide Law,
212 part I of chapter 487.

213 Section 5. Subsection (33) of section 420.507, Florida
214 Statutes, is amended to read:

215 420.507 Powers of the corporation.--The corporation shall
216 have all the powers necessary or convenient to carry out and

HB 1307 CS

2004
CS

217 effectuate the purposes and provisions of this part, including
 218 the following powers which are in addition to all other powers
 219 granted by other provisions of this part:

220 (33) To receive federal funding in connection with the
 221 corporation's programs directly from the Federal Government.
 222 Federal and state resources shall be utilized, to the extent
 223 feasible, in a manner that maximizes funding opportunities in
 224 the state.

225 Section 6. Section 450.191, Florida Statutes, is amended
 226 to read:

227 450.191 Executive Office of the Governor; powers and
 228 duties.--

229 (1) The Executive Office of the Governor is authorized and
 230 directed to:

231 (a) Advise and consult with employers of migrant workers
 232 as to the ways and means of improving living conditions of
 233 migrant seasonal workers.+

234 (b) Cooperate with the Department of Health in
 235 establishing minimum standards of preventive and curative health
 236 and of housing and sanitation in migrant labor camps and in
 237 making surveys to determine the adequacy of preventive and
 238 curative health services available to occupants of migrant labor
 239 camps.+

240 (c) Provide coordination for the enforcement of ss.
 241 381.008-381.0088 and ss. 450.27-450.38.+

242 (d) Cooperate with the Department of Business and
 243 Professional Regulation ~~other departments of government~~ in
 244 coordinating and enforcing all applicable labor laws, including,

HB 1307 CS

2004
CS

245 | but not limited to, those relating to private employment
 246 | agencies, child labor, wage payments, wage claims, and farm
 247 | labor contractors. ~~crew leaders;~~

248 | (e) Cooperate with the Department of Education to provide
 249 | educational facilities for the children of migrant laborers.;

250 | (f) Cooperate with the Department of Highway Safety and
 251 | Motor Vehicles to establish minimum standards for the
 252 | transporting of migrant laborers.;

253 | (g) Cooperate with the Department of Agriculture and
 254 | Consumer Services to conduct an education program for employers
 255 | of migrant laborers pertaining to the standards, methods, and
 256 | objectives of the office.;

257 | (h) Cooperate with the Department of Children and Family
 258 | Services in coordinating all public assistance programs as they
 259 | may apply to migrant laborers.;

260 | (i) Coordinate all federal, state, and local programs
 261 | pertaining to migrant laborers.;

262 | (j) Cooperate with the Agency for Workforce Innovation
 263 | ~~farm labor office of the Department of Business and Professional~~
 264 | ~~Regulation~~ in the recruitment and referral of migrant laborers
 265 | and other persons for the planting, cultivation, and harvesting
 266 | of agricultural crops in Florida.

267 | (2) The office shall arrange, through the Department of
 268 | Health, for the provision of the supplementary services set
 269 | forth in paragraph (1)(b) to the extent of available
 270 | appropriations. Such services may be provided through the use of
 271 | one or more traveling dispensaries, or by contract with

HB 1307 CS

2004
CS

272 physicians, dentists, hospitals, or clinics, or in such manner
273 as may be recommended by the Department of Health.

274 Section 7. Section 450.201, Florida Statutes, is amended
275 to read:

276 450.201 Legislative Commission on Migrant and Seasonal
277 Labor; membership; filling vacancies.--

278 (1) There is created a permanent joint committee of the
279 Florida Legislature to be known as the Legislative Commission on
280 Migrant and Seasonal Labor, to be composed of three members of
281 the Senate, appointed by the President of the Senate, and three
282 members of the House of Representatives, appointed by the
283 Speaker of the House. One member from each house shall be a
284 member of the minority party. Any vacancy in the commission
285 shall be filled by the respective presiding officer from the
286 membership of the legislative body from which the vacancy
287 occurred. However, a member who ceases to be a member of the
288 legislative body from which appointed shall continue to be a
289 member of the commission until the next succeeding regular
290 session of the Legislature, at which the commission shall render
291 its report to the Legislature.

292 (2) Appointments shall be made no later than March 1,
293 2005.

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

296 Section 8. Section 450.211, Florida Statutes, is amended
297 to read:

298 450.211 Advisory committee; membership.--The Legislative
299 Commission on Migrant and Seasonal Labor is authorized and

HB 1307 CS

2004
CS

300 | directed to establish an advisory committee, which shall contain
301 | the following membership:

302 | (1) One member representing the Department of Community
303 | Affairs.+

304 | (2) One member representing the Department of Health.+

305 | (3) One member representing the Department of Agriculture
306 | and Consumer Services.+

307 | (4) One member representing the Department of Education.+

308 | (5) One member representing the Florida Farm Bureau
309 | Federation.+

310 | ~~(6) One member representing the Florida State Federated~~
311 | ~~Labor Council;~~

312 | (6)(7) One member representing the Florida Fruit and
313 | Vegetable Association.+

314 | (7)(8) One member representing the Florida Citrus Mutual.
315 | ~~Citrus Industrial Council;~~

316 | (8)(9) One member representing the Executive Office of the
317 | Governor. Florida Sugar Cane League;

318 | (9)(10) One member representing a not-for-profit entity
319 | that provides social services for migrant workers ~~Not fewer than~~
320 | ~~two or more than four other persons selected and appointed by~~
321 | ~~the commission.~~

322 | (10) Two members representing farmworkers.

323 | (11) One member representing migrant nonprofit housing
324 | interests.

325 | (12) One member representing the Department of Business
326 | and Professional Regulation.

327 (13) One member representing the Agency for Workforce
 328 Innovation.

329 (14) One member representing the Department of Children
 330 and Family Services.

331 Section 9. Subsection (1) of section 450.221, Florida
 332 Statutes, is amended to read:

333 450.221 Duties and authority.--

334 (1) The duties and authority of the Legislative Commission
 335 on Migrant and Seasonal Labor shall be:

336 (a) To maintain a continuing consultative examination and
 337 supervision of the migrant labor programs relating to living
 338 conditions; health, housing, and sanitation; labor laws;
 339 education; transportation safety; public assistance; and the
 340 coordination of federal, state, and local programs administered
 341 by agencies of the executive branch of Florida government;

342 (b) To cooperate with the executive branch of state
 343 government in developing improvements in existing programs in
 344 order to discover and establish better coordination of migrant
 345 labor programs;

346 (c) To cooperate with commissions, agencies, and
 347 committees of other states having similar responsibilities,
 348 including participation in the Interstate Compact on Migrant
 349 Labor hereinafter authorized; and

350 (d) In cooperation with commissions, agencies, and
 351 committees of other states having similar responsibilities, to
 352 develop and enter into agreements for the establishment of
 353 cooperative arrangements whereby migrant labor programs shall

HB 1307 CS

2004
CS

354 have a continuing administration, application, and effectiveness
355 from state to state.

356 Section 10. Section 450.231, Florida Statutes, is amended
357 to read:

358 450.231 Annual reports to Legislature.--The commission
359 shall report its findings, recommendations, and proposed
360 legislation to each regular session of the Legislature no later
361 than February 1 of each year beginning in 2006.

362 Section 11. Section 450.261, Florida Statutes, is amended
363 to read:

364 450.261 Interstate Migrant Labor Commission; Florida
365 membership.--In selecting the Florida membership of the
366 Interstate Migrant Labor Commission, the Governor may designate
367 the secretary of the Department of Community Affairs as his or
368 her representative. The two legislative members shall be chosen
369 from among the members of the Legislative Commission on Migrant
370 and Seasonal Labor, and at least one of the two members
371 appointed by the Governor shall be chosen from among the members
372 of the advisory committee to that commission.

373 Section 12. Section 450.27, Florida Statutes, is amended
374 to read:

375 450.27 Short title.--This part shall be known by the
376 popular name ~~may be cited as~~ the "Farm Labor Contractor
377 Registration Law."

378 Section 13. Section 450.271, Florida Statutes, is amended
379 to read:

380 450.271 State administration of the Migrant and Seasonal
381 Agricultural Worker Protection Act.--The Department of Business

382 | and Professional Regulation ~~Labor and Employment Security~~ may
 383 | enter into agreements with the Secretary of Labor of the United
 384 | States to authorize the department to administer within the
 385 | State of Florida the provisions of the Migrant and Seasonal
 386 | Agricultural Worker Protection Act of 1983, as amended.

387 | Section 14. Subsections (5) and (6) are added to section
 388 | 450.28, Florida Statutes, to read:

389 | 450.28 Definitions.--

390 | (5) "Minor violation" means a violation of a specific
 391 | state or federal law or rule that does not present an imminent
 392 | threat to the health, safety, or welfare of any employee of a
 393 | farm labor contractor.

394 | (6) "Major violation" means a violation of a specific
 395 | state or federal law or rule that presents an imminent threat to
 396 | the health, safety, or welfare of any employee of a farm labor
 397 | contractor.

398 | Section 15. Subsections (6) and (7) of section 450.30,
 399 | Florida Statutes, are amended to read:

400 | 450.30 Requirement of certificate of registration;
 401 | education and examination program.--

402 | (6) The department shall require an applicant for renewal
 403 | of a certificate of registration to retake the examination only
 404 | if:

405 | (a) During the prior certification period, the department
 406 | issued a final order assessing a civil monetary penalty for a
 407 | major violation of this part or revoked or refused to renew or
 408 | issue a certificate of registration; or

409 (b) The department determines that new requirements
410 related to the duties and responsibilities of a farm labor
411 contractor necessitate a new examination.

412 (7) The department shall charge each applicant a \$35 fee
413 for the education and examination program. Such fees shall be
414 deposited in the Professional Regulation ~~Crew Chief Registration~~
415 Trust Fund.

416 Section 16. Subsections (1) and (2) of section 450.31,
417 Florida Statutes, are amended, and subsections (5) and (6) are
418 added to said section, to read:

419 450.31 Issuance, revocation, and suspension of, and
420 refusal to issue or renew, certificate of registration.--

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

424 (a) Such person has executed a written application
425 therefor in a form and pursuant to regulations prescribed by the
426 department and has submitted such information as the department
427 may prescribe.

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

431 (c) Such person pays to the department, by cashier's check
432 ~~in cash~~, certified check, or money order, a nonrefundable
433 application fee of \$125 ~~\$75~~. Fees collected by the department
434 under this subsection shall be deposited in the State Treasury
435 into the Professional Regulation ~~Crew Chief Registration~~ Trust

436 Fund, ~~which is hereby created,~~ and shall be utilized for
437 administration of this part.

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

440 (e) Such person has designated an agent to receive service
441 of process and other official or legal documents. The agent must
442 be available during regular business hours, Monday through
443 Friday, to accept service on behalf of the farm labor
444 contractor.

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

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

450 (b) Made any misrepresentation or false statement in his
451 or her application for a certificate of registration.

452 (c) Given false or misleading information concerning
453 terms, conditions, or existence of employment to persons who are
454 recruited or hired to work on a farm.

455 (d) A civil fine, assessed by the department, that remains
456 unpaid.

457 (e) Failed to pay unemployment compensation taxes as
458 determined by the Agency for Workforce Innovation.

459 (f) Been denied a federal certificate of registration as a
460 farm labor contractor or has had such certificate suspended or
461 revoked.

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

HB 1307 CS

2004
CS

464 (5) The department may permanently refuse to issue or
 465 renew or may revoke the certificate of registration if such
 466 applicant or certificateholder has been convicted within the
 467 preceding 5 years of:

468 (a) Any crime under state or federal law relating to
 469 gambling, or to the sale, distribution, or possession of
 470 alcoholic beverages, in connection with, or incident to, any
 471 farm labor contracting activities; or

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

478 (6) Receipt and acceptance of a certificate of
 479 registration as a farm labor contractor constitutes
 480 unconditional permission for, and complete acquiescence to, any
 481 inspection by department personnel of books, ledgers, and all
 482 other documents that are related to the performance of farm
 483 labor activities.

484 Section 17. Section 450.321, Florida Statutes, is created
 485 to read:

486 450.321 Best practices incentive program for farm labor
 487 contractors.--

488 (1) To promote compliance with this part, and to help the
 489 public identify farm labor contractors who have demonstrated a
 490 firm commitment to responsible and safe labor practices, the
 491 department shall develop and implement a best practices program.

492 (2) Farm labor contractors desiring designation as a best
 493 practices farm labor contractor must meet requirements
 494 established by the department. The designation is
 495 nontransferable.

496 (3) The department is authorized to enter into partnership
 497 agreements with farm labor contractors to memorialize the
 498 responsibilities of each party to the agreement regarding the
 499 requirements to receive and maintain a best practices
 500 designation. Recipients of a designation as a best practices
 501 farm labor contractor may use this designation when soliciting
 502 business, while the designation is in effect.

503 (4) A designation as a best practices farm labor
 504 contractor may be revoked if the department determines that the
 505 recipient of the designation has failed to comply with any of
 506 the requirements. Upon revocation, the recipient of the
 507 designation must cease all solicitation using the best practices
 508 farm labor contractor designation.

509 (5) The unauthorized use of the designation as a best
 510 practices farm labor contractor is prohibited. The grant of a
 511 designation as a best practices farm labor contractor shall not
 512 constitute endorsement of the recipient by the department, nor
 513 may it be characterized as such.

514 (6) In no event may the department be held liable in any
 515 civil action for any damages resulting from the granting,
 516 denying, suspending, or revoking of a designation as a best
 517 practices farm labor contractor.

518 (7) The department shall establish an incentive program
 519 for farm labor contractors receiving best practices designation.

520 Section 18. Subsection (10) of section 450.33, Florida
521 Statutes, is amended, and subsection (11) is added to said
522 section, to read:

523 450.33 Duties of farm labor contractor.--Every farm labor
524 contractor must:

525 (10) Comply with all applicable statutes, rules, and
526 regulations of the United States and of the State of Florida for
527 the protection or benefit of labor, including, but not limited
528 to, those providing for wages, hours, fair labor standards,
529 social security, workers' compensation, unemployment
530 compensation, child labor, and transportation. ~~The department~~
531 ~~shall not suspend or revoke a certificate of registration~~
532 ~~pursuant to this subsection unless:~~

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

537 ~~(b) An administrative hearing pursuant to ss. 120.569 and~~
538 ~~120.57 is held on the suspension or revocation and the~~
539 ~~administrative law judge finds that a violation of one of the~~
540 ~~laws, rules, or regulations has occurred and, if invoked, the~~
541 ~~appellate process is exhausted; or~~

542 ~~(c) The holder of a certificate of registration stipulates~~
543 ~~that a violation has occurred or defaults in the administrative~~
544 ~~proceedings brought to suspend or revoke his or her~~
545 ~~registration.~~

546 (11) Maintain accurate daily field records for each
547 employee actually paid by the farm labor contractor reflecting

548 the hours worked for the farm labor contractor and, if paid by
 549 unit, the number of units harvested and the amount paid per
 550 unit.

551 Section 19. Subsections (4) and (5) are added to section
 552 450.34, Florida Statutes, to read:

553 450.34 Prohibited acts of farm labor contractor.--A
 554 licensee may not:

555 (4) Retaliate against any person because the person has
 556 filed a complaint or aided an investigation pursuant to this
 557 part.

558 (5) Contract with or employ any person acting in the
 559 capacity of a farm labor contractor, or performing activities
 560 defined in s. 450.28(1), who does not have a current certificate
 561 of registration issued by the department pursuant to the
 562 requirements of this part.

563 Section 20. Section 450.35, Florida Statutes, is amended
 564 to read:

565 450.35 Certain contracts or employment prohibited.--It is
 566 unlawful for any person to contract with or employ ~~for the~~
 567 ~~employment of farm workers with~~ any farm labor contractor as
 568 defined in this act until the labor contractor displays to him
 569 or her a current certificate of registration issued by the
 570 department pursuant to the requirements of this part. A
 571 violation of this section is subject to the penalty provided in
 572 s. 450.38(1).

573 Section 21. Section 450.37, Florida Statutes, is amended
 574 to read:

HB 1307 CS

2004
CS

575 450.37 Cooperation with federal and state agencies.--The
576 department shall, whenever appropriate, cooperate with any
577 federal agency. The department is authorized and empowered to
578 cooperate with and enter into agreements with any other agency
579 of this state for the purpose of carrying out the provisions of
580 this part and securing uniformity of regulations.

581 Section 22. Section 450.38, Florida Statutes, is amended
582 to read:

583 450.38 Enforcement of farm labor ~~contractor~~ laws.--

584 (1) Any person, firm, association, or corporation not
585 excluded under s. 450.29 who commits a minor violation ~~violates~~
586 ~~any provision~~ of this part and, upon conviction, is guilty of
587 ~~commits~~ a misdemeanor of the second degree, is punishable as
588 provided in s. 775.082 or s. 775.083.

589 (2) Any person, firm, association, or corporation who
590 commits a major violation of this part and, upon conviction, is
591 guilty of a felony of the third degree, is punishable as
592 provided in s. 775.082, s. 775.083, or s. 775.084.

593 (3)~~(2)~~ Any person who, ~~on or after June 19, 1985,~~ commits
594 a violation of this part or of any rule adopted thereunder may
595 be assessed a civil penalty of not more than \$2,500 ~~\$1,000~~ for
596 each such violation. Such assessed penalties shall be paid by
597 cashier's check ~~in cash~~, certified check, or money order and
598 shall be deposited into the General Revenue Fund. The department
599 shall not institute or maintain any administrative proceeding to
600 assess a civil penalty under this subsection when the violation
601 is the subject of a criminal indictment or information under
602 this section which results in a criminal penalty being imposed,

603 or of a criminal, civil, or administrative proceeding by the
 604 United States government or an agency thereof which results in a
 605 criminal or civil penalty being imposed. The department may
 606 adopt rules prescribing the criteria to be used to determine the
 607 amount of the civil penalty and to provide notification to
 608 persons assessed a civil penalty under this section.

609 ~~(4)(3)~~ Upon a complaint of the department being filed in
 610 the circuit court of the county in which the farm labor
 611 contractor resides or may be doing business, any farm labor
 612 contractor who fails to obtain a certificate of registration as
 613 required by this part may, in addition to such penalties, be
 614 enjoined from engaging in any activity which requires the farm
 615 labor contractor to possess a certificate of registration.

616 ~~(5)(4)~~ For the purpose of any investigation or proceeding
 617 conducted by the department, the secretary of the department or
 618 the secretary's designee shall have the power to administer
 619 oaths, take depositions, make inspections when authorized by
 620 statute, issue subpoenas which shall be supported by affidavit,
 621 serve subpoenas and other process, and compel the attendance of
 622 witnesses and the production of books, papers, documents, and
 623 other evidence. The secretary of the department or the
 624 secretary's designee shall exercise this power on the
 625 secretary's own initiative.

626 (6) A farm labor contractor who commits a minor violation
 627 of this part shall be issued a warning for the first violation.
 628 A civil penalty in increments of \$250 may be assessed for each
 629 successive violation of a specific statute or rule of this part
 630 within a 2-year period from the date of the first violation.

HB 1307 CS

2004
CS

631 After reaching the \$2,500 maximum amount of a cumulative fine
 632 for minor violations, the certificate of registration may be
 633 revoked.

634 (7) A farm labor contractor who commits a major violation
 635 of a specific statute or rule of this part shall be assessed a
 636 civil penalty of at least \$750 for the first violation, of at
 637 least \$1,500 for the second violation, and of not more than
 638 \$2,500 for the third such violation within a 2-year period from
 639 the date of the first violation. The certificate of registration
 640 may be revoked for the fourth such violation within a 2-year
 641 period from the date of the first violation.

642 (8) The department shall provide notice of any suspected
 643 violations of any law to the appropriate entity.

644 Section 23. Section 450.39, Florida Statutes, is created
 645 to read:

646 450.39 Required purchase of goods or services solely from
 647 any person prohibited against excessive charges.--

648 (1) No farm labor contractor shall require any farmworker
 649 to purchase goods or services solely from such farm labor
 650 contractor or any other person acting as an agent for such farm
 651 labor contractor. A violation of this subsection is a felony of
 652 the third degree, punishable as provided in s. 775.082, s.
 653 775.083, or s. 775.084.

654 (2) No farm labor contractor shall charge a farmworker
 655 more than a reasonable cost for any commodity, including
 656 housing, food, water, or other consumables, in accordance with
 657 Title 29 C.F.R. 531.3. "Reasonable cost" is defined as not being
 658 able to make a profit off the product supplied to the

HB 1307 CS

2004
CS

659 farmworker. A violation and conviction of this subsection is
660 subject to the penalties as provided in s. 450.38(2).

661 Section 24. Section 487.011, Florida Statutes, is amended
662 to read:

663 487.011 Popular name ~~Short title~~; administration.--This
664 part shall ~~chapter may~~ be known by the popular name ~~cited as~~ the
665 "Florida Pesticide Law" and shall be administered by the
666 Department of Agriculture and Consumer Services.

667 Section 25. Section 487.012, Florida Statutes, is amended
668 to read:

669 487.012 Declaration of purpose.--The purpose of this part
670 ~~chapter~~ is to regulate the distribution, sale, and use of
671 pesticides, except as provided in chapters 388 and 482, and to
672 protect people and the environment from the adverse effects of
673 pesticides.

674 Section 26. Section 487.021, Florida Statutes, is amended
675 to read:

676 487.021 Definitions.--For the purpose of this part
677 ~~chapter~~:

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

685 (2) "Active ingredient" means:

HB 1307 CS

2004
CS

686 (a) In the case of a pesticide other than a plant
687 regulator, defoliant, or desiccant, an ingredient which will
688 prevent, destroy, repel, or mitigate insects, nematodes, fungi,
689 rodents, weeds, or other pests.

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

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

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

698 (3) "Added ingredient" means any plant nutrient or plant
699 regulator added to the mixture which is not an active pesticidal
700 ingredient, but which the manufacturer wishes to show on the
701 label.

702 (4) "Adulterated" applies to any pesticide if its strength
703 or purity falls below or is in excess of the professed standard
704 of quality as expressed on labeling or under which it is sold,
705 if any substance has been substituted wholly or in part for the
706 pesticide or if any valuable constituent of the pesticide has
707 been wholly or in part abstracted.

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

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

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

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

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

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

724 (11) "Antisiphon device" means a safety device used to
725 prevent the backflow of a mixture of water and chemicals into
726 the water supply.

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

730 (13) "Brand" means the name, number, trademark, or any
731 other designation which distinguishes one pesticide product from
732 another.

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

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

741 (16) "Commercial 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 any restricted-use pesticide for any
 744 purpose on any property other than as provided by the
 745 definitions of "private applicator," "product specific
 746 applicator," or "public applicator," whether or not the
 747 individual is a private applicator with respect to some uses.

748 (17) "Dealer" means any person, other than the
 749 manufacturer or distributor, who offers for sale, sells,
 750 barter, or otherwise supplies pesticides to the ultimate user
 751 or consumer.

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

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

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

760 (21) "Desiccant" means any substance or mixture of
 761 substances intended for artificially accelerating the drying of
 762 plant tissues.

763 (22) "Device" means any instrument or contrivance (other
 764 than a firearm) which is intended for trapping, destroying,
 765 repelling, or mitigating, any pest or other form of plant or
 766 animal life (other than human and other than bacteria, virus, or
 767 other microorganism on or in living humans or other living

768 animals); but not including equipment used for the application
769 of pesticides when sold separately.

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

772 (24) "Distributor" means any person who offers for sale,
773 holds for sale, sells, barter, or supplies pesticides in this
774 state.

775 (25) "Emergency exemption" means an exemption as
776 authorized in s. 18 of the Federal Insecticide, Fungicide, and
777 Rodenticide Act.

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

780 (27) "Equipment" means any type of ground, aquatic, or
781 aerial device used to apply any pesticide on land, and on
782 anything that may be growing, habituating, or stored on or in
783 the land. Equipment does not include any pressurized hand-size
784 household device used to apply any pesticide, or any other
785 device where the person applying the pesticide is the source of
786 power for applying the pesticide.

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

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

793 (30) "Fungi" means all non-chlorophyll-bearing
794 thallophytes (that is, all non-chlorophyll-bearing plants of a
795 lower order than mosses and liverworts), as, for example, rusts,

796 smuts, mildews, molds, yeasts, and bacteria, except those on or
797 in living humans or other animals.

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

801 (32) "Imminent hazard" means a situation which exists when
802 the continued use of a pesticide during the time required for
803 cancellation proceedings would be likely to result in
804 unreasonable adverse effects on the environment or will involve
805 unreasonable hazard to the survival of a species declared
806 endangered.

807 (33) "Ineffective" means that pesticides such as
808 bacteriostats, disinfectants, germicides, sanitizers, and like
809 products fail to meet microbiological claims when tested in the
810 laboratory utilizing the officially approved procedures of the
811 Association of Official Analytical Chemists or other methods or
812 procedures as the department may find necessary.

813 (34) "Inert ingredient" means an ingredient which is not
814 an active ingredient.

815 (35) "Ingredient statement" means a statement of the name
816 and percentage by weight of each active ingredient, together
817 with the total percentage of the inert ingredients in the
818 pesticides.

819 (36) "Insect" means any of the numerous small invertebrate
820 animals generally having the body more or less obviously
821 segmented, for the most part belonging to the class Insecta,
822 comprising six legs, usually in winged form (as, for example,
823 beetles, bugs, bees, and flies) and to other allied classes and

HB 1307 CS

2004
CS

824 arthropods whose members are wingless and usually have more than
825 six legs (as, for example, spiders, mites, ticks, centipedes,
826 and wood lice).

827 (37) "Irrigation system" means any device or combination
828 of devices having a hose, pipe, or other conduit which connects
829 directly to any source of ground or surface water, through which
830 device or combination of devices water or a mixture of water and
831 chemicals is drawn and applied for agricultural purposes. The
832 term does not include any handheld hose sprayer or other similar
833 device which is constructed so that an interruption in water
834 flow automatically prevents any backflow to the water source.

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

838 (39) "Labeling" means all labels and other written,
839 printed, or graphic matter referencing the pesticide or device
840 or upon any of its containers or wrappers, or accompanying the
841 pesticide or device at any time, but does not include accurate,
842 nonmisleading reference to current official publications of the
843 United States Departments of Agriculture or Interior, the
844 Environmental Protection Agency, the United States Public Health
845 Service, state experiment stations, state agricultural colleges,
846 or other similar federal institutions or official agencies of
847 this state or other states authorized by law to conduct research
848 in the field of pesticides.

849 (40) "Land" means all land and water areas, including
850 airspace.

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

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

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

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

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

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

872 (47) "Percent" means one one-hundredth part by weight or
 873 volume.

874 (48) "Pest" means:

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

876 (b) Any other form of terrestrial or aquatic plant or
 877 animal life or virus, bacteria, or other microorganism, except
 878 viruses, bacteria, or other microorganisms on or in living

879 humans or other living animals, which is declared to be a pest
 880 by the administrator of the United States Environmental
 881 Protection Agency or which may be declared to be a pest by the
 882 department by rule.

883 (49) "Pesticide" means any substance or mixture of
 884 substances intended for preventing, destroying, repelling, or
 885 mitigating any insects, rodents, nematodes, fungi, weeds, or
 886 other forms of plant or animal life or viruses, except viruses,
 887 bacteria, or fungi on or in living humans or other animals,
 888 which the department by rule declares to be a pest, and any
 889 substance or mixture of substances intended for use as a plant
 890 regulator, defoliant, or desiccant; however, the term
 891 "pesticide" does not include any article that:

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

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

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

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

904 (51) "Plant regulator" means any substance or mixture of
 905 substances intended, through physiological action, for
 906 accelerating or retarding the rate of growth or maturation, or

HB 1307 CS

2004
CS

907 | for otherwise altering the behavior, of ornamental or crop
908 | plants or the produce thereof; but does not include substances
909 | intended as plant nutrients, trace elements, nutritional
910 | chemicals, plant inoculants, or soil amendments.

911 | (52) "Private applicator" means an individual who has
912 | reached the age of majority and is licensed by the department to
913 | use or supervise the use of any restricted-use pesticide for
914 | purposes of producing any agricultural commodity on property
915 | owned or rented by his or her employer, or, if applied without
916 | compensation other than the trading of personal services between
917 | producers of agricultural commodities, on the property of
918 | another person.

919 | (53) "Product" means a unique pesticide and label as
920 | distinguished by its individually assigned United States
921 | Environmental Protection Agency registration number, special
922 | local need registration number, or experimental use permit
923 | number.

924 | (54) "Protect health and the environment" means protection
925 | against any unreasonable adverse effects on people or the
926 | environment.

927 | (55) "Public applicator" means an individual who has
928 | reached the age of majority and is licensed by the department to
929 | use or supervise the use of restricted-use pesticides as an
930 | employee of a state agency, municipal corporation, or other
931 | governmental agency.

932 | (56) "Product specific applicator" means an individual who
933 | has reached the age of majority and is licensed by the
934 | department to use or supervise the use of a particular

935 restricted-use pesticide product that is identified on the
 936 license by the United States Environmental Protection Agency
 937 registration number, as well as any Florida special local need
 938 registration number and any specific identifying information as
 939 deemed appropriate for nonfederally registered products exempt
 940 under s. 18 of the Federal Insecticide, Fungicide, and
 941 Rodenticide Act, provided that the restricted-use pesticide
 942 product is used for the purpose of producing agricultural
 943 commodities on property owned or rented by the licensee or the
 944 licensee's employer, or is applied on the property of another
 945 person without compensation other than trading of personal
 946 services between producers of agricultural commodities.

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

949 (58) "Restricted-use pesticide" means a pesticide which,
 950 when applied in accordance with its directions for use,
 951 warnings, and cautions and for uses for which it is registered
 952 or for one or more such uses, or in accordance with a widespread
 953 and commonly recognized practice, may generally cause, without
 954 additional regulatory restrictions, unreasonable adverse effects
 955 on the environment, or injury to the applicator or other
 956 persons, and which has been classified as a restricted-use
 957 pesticide by the department or the administrator of the United
 958 States Environmental Protection Agency.

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

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

HB 1307 CS

2004
CS

963 (61) "Special review" is a process for reviewing selected
 964 pesticides based upon information that the pesticides have been
 965 found to present environmental or health concerns not considered
 966 in the registration process or that data submitted in support of
 967 registration are inadequate or outdated.

968 (62) "Tolerance" means the deviation from the guaranteed
 969 analysis permitted by law.

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

974 (64) "Under the direct supervision of a licensed
 975 applicator" means, unless otherwise prescribed by its labeling,
 976 a pesticide that must be applied by a competent person acting
 977 under the instruction and control of a licensed applicator who
 978 is available if and when needed, even though the licensed
 979 applicator is not physically present when the pesticide is
 980 applied.

981 (65) "Unreasonable adverse effects on the environment"
 982 means any unreasonable risk to humans or the environment, taking
 983 into account the economic, social, and environmental costs and
 984 benefits of the use of any pesticide.

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

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

989 Section 27. Subsection (2) of section 487.025, Florida
 990 Statutes, is amended to read:

991 487.025 Misbranding.--

992 (2) A pesticide is misbranded if:

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

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

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

1000 (d) The label does not contain a warning or caution
1001 statement which may be necessary and, if complied with, adequate
1002 to prevent injury to living humans and other vertebrate animals.

1003 (e) The label does not bear an ingredient statement on
1004 that part of the immediate container, and on the outside
1005 container or wrapper, if there is one, through which the
1006 ingredient statement on the immediate container cannot be
1007 clearly read, of the retail package which is presented or
1008 displayed under customary conditions of purchase.

1009 (f) Any word, statement, or other information required by
1010 or under authority of this part ~~chapter~~ to appear on the
1011 labeling is not prominently placed thereon with such
1012 conspicuousness, as compared with other words, statements,
1013 designs, or graphic matter in the labeling, and in such terms as
1014 to render it likely to be read and understood by the ordinary
1015 individual under customary conditions of purchase and use.

1016 (g) It is injurious to living humans or other vertebrate
1017 animals or vegetation, except weeds, to which it is applied, or

HB 1307 CS

2004
CS

1018 | to the person applying such pesticide as directed or in
1019 | accordance with commonly recognized practice.

1020 | (h) In the case of a plant regulator, defoliant, or
1021 | desiccant, when used as directed, it is injurious to living
1022 | humans or other vertebrate animals, or vegetation, to which it
1023 | is applied, or to the person applying such pesticide. However,
1024 | physical or physiological effects on plants or parts thereof
1025 | shall not be deemed to be injury when this is the purpose for
1026 | which the plant regulator, defoliant, or desiccant was applied
1027 | in accordance with the label claims and recommendations.

1028 | (i) Any ingredient which is present in amounts which are
1029 | not likely to be effective when used according to directions is
1030 | given undue prominence or conspicuousness, as compared with
1031 | ingredients which are present in effective amounts, in its
1032 | labeling. Such ingredient shall appear only in the ingredient
1033 | statement.

1034 | (j) It is found to be ineffective when tested in the
1035 | laboratory.

1036 | (k) It is found by the department to be of short measure.

1037 | Section 28. Subsections (2), (4), (5), and (13) of section
1038 | 487.031, Florida Statutes, are amended to read:

1039 | 487.031 Prohibited acts.--It is unlawful:

1040 | (2) To distribute, sell, or offer for sale within this
1041 | state any pesticide or product which has not been registered
1042 | pursuant to the provisions of this part ~~chapter~~, except
1043 | pesticides distributed, sold, offered for sale, or used in
1044 | accordance with the provisions of federal or state restriction,

1045 supervision, or cancellation orders or other existing stock
1046 agreements.

1047 (4) To detach, alter, deface, or destroy, in whole or in
1048 part, any label or labeling provided for in this part ~~chapter~~ or
1049 rules promulgated under this part ~~chapter~~, or to add any
1050 substance to, or take any substance from, any pesticide in a
1051 manner that may defeat the purpose of this part ~~chapter~~.

1052 (5) For any person to use for his or her own advantage or
1053 to reveal any information relative to formulas of products
1054 acquired by authority of this part ~~chapter~~, other than to: the
1055 department, proper officials, or employees of the state; the
1056 courts of this state in response to a subpoena; physicians,
1057 pharmacists, and other qualified persons, in an emergency, for
1058 use in the preparation of antidotes. The information relative to
1059 formulas of products is confidential and exempt from the
1060 provisions of s. 119.07(1).

1061 (13) For any person to:

1062 (a) Make a false or fraudulent claim through any medium,
1063 misrepresenting the effect of materials or methods used;

1064 (b) Make a pesticide recommendation or application not in
1065 accordance with the label, except as provided in this section,
1066 or not in accordance with recommendations of the United States
1067 Environmental Protection Agency or not in accordance with the
1068 specifications of a special local need registration;

1069 (c) Operate faulty or unsafe equipment;

1070 (d) Operate in a faulty, careless, or negligent manner;

HB 1307 CS

2004
CS

1071 (e) Apply any pesticide directly to, or in any manner
1072 cause any pesticide to drift onto, any person or area not
1073 intended to receive the pesticide;

1074 (f) Fail to disclose to an agricultural crop grower, prior
1075 to the time pesticides are applied to a crop, full information
1076 regarding the possible harmful effects to human beings or
1077 animals and the earliest safe time for workers or animals to
1078 reenter the treated field;

1079 (g) Refuse or, after notice, neglect to comply with the
1080 provisions of this part ~~chapter~~, the rules adopted under this
1081 part ~~chapter~~, or any lawful order of the department;

1082 (h) Refuse or neglect to keep and maintain the records
1083 required by this part ~~chapter~~ or to submit reports when and as
1084 required;

1085 (i) Make false or fraudulent records, invoices, or
1086 reports;

1087 (j) Use fraud or misrepresentation in making an
1088 application for a license or license renewal;

1089 (k) Refuse or neglect to comply with any limitations or
1090 restrictions on or in a duly issued license;

1091 (l) Aid or abet a licensed or unlicensed person to evade
1092 the provisions of this part ~~chapter~~, or combine or conspire with
1093 a licensed or unlicensed person to evade the provisions of this
1094 part ~~chapter~~, or allow a license to be used by an unlicensed
1095 person;

1096 (m) Make false or misleading statements during or after an
1097 inspection concerning any infestation or infection of pests
1098 found on land;

HB 1307 CS

2004
CS

1099 (n) Make false or misleading statements, or fail to
1100 report, pursuant to this part ~~chapter~~, any suspected or known
1101 damage to property or illness or injury to persons caused by the
1102 application of pesticides;

1103 (o) Impersonate any state, county, or city inspector or
1104 official;

1105 (p) Fail to maintain a current liability insurance policy
1106 or surety bond as provided for in this part ~~chapter~~;

1107 (q) Fail to adequately train, as provided for in this part
1108 ~~chapter~~, unlicensed applicators or mixer-loaders applying
1109 restricted-use pesticides under the direct supervision of a
1110 licensed applicator; or

1111 (r) Fail to provide authorized representatives of the
1112 department with records required by this part ~~chapter~~ or with
1113 free access for inspection and sampling of any pesticide, areas
1114 treated with or impacted by these materials, and equipment used
1115 in their application.

1116 Section 29. Subsections (2), (3), and (8) of section
1117 487.041, Florida Statutes, are amended to read:

1118 487.041 Registration.--

1119 (2) For the purpose of defraying expenses of the
1120 department in connection with carrying out the provisions of
1121 this part ~~chapter~~, each person shall pay an annual registration
1122 fee of \$250 for each registered pesticide. The annual
1123 registration fee for each special local need label and
1124 experimental use permit shall be \$100. All registrations expire
1125 on December 31 of each year. Nothing in this section shall be
1126 construed as applying to distributors or retail dealers selling

1127 pesticides when such pesticides are registered by another
1128 person.

1129 (3) The department shall adopt rules governing the
1130 procedures for pesticide registration and for the review of data
1131 submitted by an applicant for registration of a pesticide. The
1132 department shall determine whether a pesticide should be
1133 registered, registered with conditions, or tested under field
1134 conditions in this state. The department shall determine that
1135 all requests for pesticide registrations meet the requirements
1136 of current state and federal law. The department, whenever it
1137 deems it necessary in the administration of this part ~~chapter~~,
1138 may require the manufacturer or registrant to submit the
1139 complete formula, quantities shipped into or manufactured in the
1140 state for distribution and sale, evidence of the efficacy and
1141 the safety of any pesticide, and other relevant data. The
1142 department may review and evaluate a registered pesticide if new
1143 information is made available which indicates that use of the
1144 pesticide has caused an unreasonable adverse effect on public
1145 health or the environment. Such review shall be conducted upon
1146 the request of the secretary of the Department of Health in the
1147 event of an unreasonable adverse effect on public health or the
1148 secretary of the Department of Environmental Protection in the
1149 event of an unreasonable adverse effect on the environment. Such
1150 review may result in modifications, revocation, cancellation, or
1151 suspension of a pesticide registration. The department, for
1152 reasons of adulteration, misbranding, or other good cause, may
1153 refuse or revoke the registration of any pesticide, after notice
1154 to the applicant or registrant giving the reason for the

1155 decision. The applicant may then request a hearing, pursuant to
 1156 chapter 120, on the intention of the department to refuse or
 1157 revoke registration, and, upon his or her failure to do so, the
 1158 refusal or revocation shall become final without further
 1159 procedure. In no event shall registration of a pesticide be
 1160 construed as a defense for the commission of any offense
 1161 prohibited under this part ~~chapter~~.

1162 (8) Nothing in this section affects the authority of the
 1163 department to administer the pesticide registration program
 1164 under this part ~~chapter~~ or the authority of the Commissioner of
 1165 Agriculture to approve the registration of a pesticide.

1166 Section 30. Section 487.0435, Florida Statutes, is amended
 1167 to read:

1168 487.0435 License classification.--The department shall
 1169 issue certified applicator licenses in the following
 1170 classifications: certified public applicator; certified private
 1171 applicator; and certified commercial applicator. In addition,
 1172 separate classifications and subclassifications may be specified
 1173 by the department in rule as deemed necessary to carry out the
 1174 provisions of this part ~~chapter~~. Each classification shall be
 1175 subject to requirements or testing procedures to be set forth by
 1176 rule of the department and shall be restricted to the activities
 1177 within the scope of the respective classification as established
 1178 in statute or by rule. In specifying classifications, the
 1179 department may consider, but is not limited to, the following:

1180 (1) Whether the license sought is for commercial, public,
 1181 or private applicator status.

1182 (2) The method of applying the restricted-use pesticide.

HB 1307 CS

2004
CS

1183 (3) The specific crops upon which restricted-use
1184 pesticides are applied.

1185 (4) The proximity of populated areas to the land upon
1186 which restricted-use pesticides are applied.

1187 (5) The acreage under the control of the licensee.

1188 (6) The pounds of technical restricted toxicant applied
1189 per acre per year by the licensee.

1190 Section 31. Section 487.045, Florida Statutes, is amended
1191 to read:

1192 487.045 Fees.--

1193 (1) The department shall establish applicable fees by
1194 rule. The fees shall not exceed \$250 for commercial applicators
1195 or \$100 for private applicators and public applicators, for
1196 initial licensing and for each subsequent license renewal. The
1197 fees shall be determined annually and shall represent department
1198 costs associated with enforcement of the provisions of this part
1199 ~~chapter~~.

1200 (2) Fees collected under the provisions of this part
1201 ~~chapter~~ shall be deposited into the General Inspection Trust
1202 Fund and shall be used to defray expenses in the administration
1203 of this part ~~chapter~~.

1204 Section 32. Subsection (2) of section 487.046, Florida
1205 Statutes, is amended to read:

1206 487.046 Application; licensure.--

1207 (2) If the department finds the applicant qualified in the
1208 classification for which the applicant has applied, and if the
1209 applicant applying for a license to engage in aerial application
1210 of pesticides has met all of the requirements of the Federal

HB 1307 CS

2004
CS

1211 Aviation Agency and the Department of Transportation of this
 1212 state to operate the equipment described in the application and
 1213 has shown proof of liability insurance or posted a surety bond
 1214 in an amount to be set forth by rule of the department, the
 1215 department shall issue a certified applicator's license, limited
 1216 to the classifications for which the applicant is qualified. The
 1217 license shall expire as required by rules promulgated under this
 1218 part ~~chapter~~, unless it has been revoked or suspended by the
 1219 department prior to expiration, for cause as provided in this
 1220 part ~~chapter~~. The license or authorization card issued by the
 1221 department verifying licensure shall be kept on the person of
 1222 the licensee while performing work as a licensed applicator.

1223 Section 33. Section 487.047, Florida Statutes, is amended
 1224 to read:

1225 487.047 Nonresident license; reciprocal agreement;
 1226 authorized purchase.--

1227 (1) The department may waive all or part of the
 1228 examination requirements provided for in this part ~~chapter~~ on a
 1229 reciprocal basis with any other state or agency, or an Indian
 1230 tribe, that has substantially the same or better standards.

1231 (2) Any nonresident applying for a license under this part
 1232 ~~chapter~~ to operate in the state shall file a Designation of
 1233 Registered Agent naming the Secretary of State as the agent of
 1234 the nonresident, upon whom process may be served in the event of
 1235 any suit against the nonresident. The designation shall be
 1236 prepared on a form provided by the department and shall render
 1237 effective the jurisdiction of the courts of this state over the
 1238 nonresident applicant. However, any nonresident who has a duly

1239 appointed registered agent upon whom process may be served as
 1240 provided by law shall not be required to designate the Secretary
 1241 of State as registered agent. The Secretary of State shall be
 1242 allowed the registered-agent fees as provided by law for
 1243 designating registered agents. The department shall be furnished
 1244 with a copy of the designation of the Secretary of State or of a
 1245 registered agent which is certified by the Secretary of State.
 1246 The Secretary of State shall notify the department of any
 1247 service of process it receives as registered agent for persons
 1248 licensed under this part ~~chapter~~.

1249 (3) Restricted-use pesticides may be purchased by any
 1250 person who holds a valid applicator's license or who holds a
 1251 valid purchase authorization card issued by the department or by
 1252 a licensee under chapter 482 or chapter 388. A nonlicensed
 1253 person may apply restricted-use pesticides under the direct
 1254 supervision of a licensed applicator. An applicator's license
 1255 shall be issued by the department on a form supplied by it in
 1256 accordance with the requirements of this part ~~chapter~~.

1257 Section 34. Subsection (1) of section 487.049, Florida
 1258 Statutes, is amended to read:

1259 487.049 Renewal; late fee; recertification.--

1260 (1) The department shall require renewal of a certified
 1261 applicator's license at 4-year intervals from the date of
 1262 issuance. If the application for renewal of any license provided
 1263 for in this part ~~chapter~~ is not filed on time, a late fee shall
 1264 be assessed not to exceed \$50. However, the penalty shall not
 1265 apply if the renewal application is filed within 60 days after
 1266 the renewal date, provided the applicant furnishes an affidavit

1267 certifying that he or she has not engaged in business subsequent
 1268 to the expiration of the license for a period not exceeding 60
 1269 days. A license may be renewed without taking another
 1270 examination unless the department determines that new knowledge
 1271 related to the classification for which the applicant has
 1272 applied makes a new examination necessary; however, the
 1273 department may require the applicant to provide evidence of
 1274 continued competency, as determined by rule. If the license is
 1275 not renewed within 60 days after ~~of~~ the expiration date, then
 1276 the licensee may again be required to take another examination,
 1277 unless there is some unavoidable circumstance which results in
 1278 the delay of the renewal of any license issued under this part
 1279 ~~chapter~~ which was not under the applicant's control.

1280 Section 35. Paragraph (b) of subsection (1) and subsection
 1281 (2) of section 487.051, Florida Statutes, are amended to read:

1282 487.051 Administration; rules; procedure.--

1283 (1) The department may by rule:

1284 (b) Establish procedures for the taking and handling of
 1285 samples and establish tolerances and deficiencies where not
 1286 specifically provided for in this part ~~chapter~~; assess
 1287 penalties; and prohibit the sale or use of pesticides or devices
 1288 shown to be detrimental to human beings, the environment, or
 1289 agriculture or to be otherwise of questionable value.

1290 (2) The department is authorized to adopt by rule the
 1291 primary standards established by the United States Environmental
 1292 Protection Agency with respect to pesticides. If the provisions
 1293 of this part ~~chapter~~ are preempted in part by federal law, those
 1294 provisions not preempted shall apply. This part ~~chapter~~ is

HB 1307 CS

2004
CS

1295 intended as comprehensive and exclusive regulation of pesticides
 1296 in this state. Except as provided in chapters 373, 376, 388,
 1297 403, and 482, or as otherwise provided by law, no agency,
 1298 commission, department, county, municipality, or other political
 1299 subdivision of the state may adopt laws, regulations, rules, or
 1300 policies pertaining to pesticides, including their registration,
 1301 packaging, labeling, distribution, sale, or use, except that
 1302 local jurisdictions may adopt or enforce an ordinance pertaining
 1303 to pesticides if that ordinance is in the area of occupational
 1304 license taxes, building and zoning regulations, disposal or
 1305 spillage of pesticides within a water well zone, or pesticide
 1306 safety regulations relating to containment at the storage site.

1307 Section 36. Subsection (4) of section 487.0615, Florida
 1308 Statutes, is amended to read:

1309 487.0615 Pesticide Review Council.--

1310 (4) The council is defined as a "substantially interested
 1311 person" and has standing under chapter 120 in any proceeding
 1312 conducted by the department relating to the registration of a
 1313 pesticide under this part ~~chapter~~. The standing of the council
 1314 shall in no way prevent individual members of the council from
 1315 exercising standing in these matters.

1316 Section 37. Section 487.071, Florida Statutes, is amended
 1317 to read:

1318 487.071 Enforcement, inspection, sampling, and analysis.--

1319 (1) The department is authorized to enter upon any public
 1320 or private premises or carrier where pesticides are known or
 1321 thought to be distributed, sold, offered for sale, held, stored,
 1322 or applied, during regular business hours in the performance of

1323 | its duties relating to pesticides and records pertaining to
 1324 | pesticides. No person shall deny or refuse access to the
 1325 | department when it seeks to enter upon any public or private
 1326 | premises or carrier during business hours in performance of its
 1327 | duties under this part ~~chapter~~.

1328 | (2) The department is authorized and directed to sample,
 1329 | test, inspect, and make analyses of pesticides sold, offered for
 1330 | sale, distributed, or used within this state, at a time and
 1331 | place and to such an extent as it may deem necessary, to
 1332 | determine whether the pesticides or persons exercising control
 1333 | over the pesticides are in compliance with the provisions of
 1334 | this part ~~chapter~~, the rules adopted under this part ~~chapter~~,
 1335 | and the provisions of the pesticide label or labeling.

1336 | (3) The official analysis shall be made from the official
 1337 | sample. A sealed and identified sample, herein called "official
 1338 | check sample" shall be kept until the analysis on the official
 1339 | sample is completed. However, the registrant may obtain upon
 1340 | request a portion of the official sample. Upon completion of the
 1341 | analysis of the official sample, a true copy of the certificate
 1342 | of analysis shall be mailed to the registrant of the pesticide
 1343 | from whom the official sample was taken and also to the dealer
 1344 | or agent, if any, and consumer, if known. If the official
 1345 | analysis conforms with the provisions of this part ~~chapter~~, the
 1346 | official check sample may be destroyed. If the official analysis
 1347 | does not conform with the provisions of this part ~~chapter~~, the
 1348 | rules adopted under this part ~~chapter~~, and the provisions of the
 1349 | pesticide label or labeling, the official check sample shall be
 1350 | retained for a period of 90 days from the date of the

HB 1307 CS

2004
CS

1351 certificate of analysis of the official sample. If within that
1352 time the registrant of the pesticide from whom the official
1353 sample was taken makes demand for analysis by a referee chemist,
1354 a portion of the official check sample sufficient for analysis
1355 shall be sent to a referee chemist who is mutually acceptable to
1356 the department and the registrant for analysis at the expense of
1357 the registrant. Upon completion of the analysis, the referee
1358 chemist shall forward to the department and to the registrant a
1359 certificate of analysis bearing a proper identification mark or
1360 number; and such certificate of analysis shall be verified by an
1361 affidavit of the person or laboratory making the analysis. If
1362 the certificate of analysis checks within 3 percent of the
1363 department's analysis on each active ingredient for which
1364 analysis was made, the mean average of the two analyses shall be
1365 accepted as final and binding on all concerned. However, if the
1366 referee's certificate of analysis shows a variation of greater
1367 than 3 percent from the department's analysis in any one or more
1368 of the active ingredients for which an analysis was made, upon
1369 demand of either the department or the registrant from whom the
1370 official sample was taken, a portion of the official check
1371 sample sufficient for analysis shall be submitted to a second
1372 referee chemist who is mutually acceptable to the department and
1373 the registrant, at the expense of the party or parties
1374 requesting the referee analysis. Upon completion of the
1375 analysis, the second referee chemist shall make a certificate
1376 and report as provided in this subsection for the first referee
1377 chemist. The mean average of the two analyses nearest in
1378 conformity shall be accepted as final and binding on all

1379 concerned. If no demand is made for an analysis by a second
 1380 referee chemist, the department's certificate of analysis shall
 1381 be accepted as final and binding on all concerned.

1382 (4) If a pesticide or device fails to comply with the
 1383 provisions of this part ~~chapter~~ with reference to the ingredient
 1384 statement reflecting the composition of the product, as required
 1385 on the registration and labeling, and the department
 1386 contemplates possible criminal proceedings against the person
 1387 responsible because of this violation, the department shall,
 1388 after due notice, accord the person an informal hearing or an
 1389 opportunity to present evidence and opinions, either orally or
 1390 in writing, with regard to such contemplated proceedings. If in
 1391 the opinion of the department the facts warrant, the department
 1392 may refer the facts to the state attorney for the county in
 1393 which the violation occurred, with a copy of the results of the
 1394 analysis or the examination of such article; provided that
 1395 nothing in this part ~~chapter~~ shall be construed as requiring the
 1396 department to report for prosecution minor violations whenever
 1397 it believes that the public interest will be subserved by a
 1398 suitable notice of warning in writing.

1399 (5) It shall be the duty of each state attorney to whom
 1400 any such violation is reported to cause appropriate proceedings
 1401 to be instituted and prosecuted in a court of competent
 1402 jurisdiction without delay.

1403 (6) The department shall, by publication in such manner as
 1404 it may prescribe, give notice of all judgments entered in
 1405 actions instituted under the authority of this part ~~chapter~~.

HB 1307 CS

2004
CS

1406 (7)(a) The department may analyze pesticide samples upon
1407 request in a manner consistent with this part ~~chapter~~.

1408 (b) The department shall establish by rule a fee schedule
1409 for pesticide samples analyzed upon request. The fees shall be
1410 sufficient to cover the costs to the department for taking the
1411 samples and performing the analysis. However, no fee shall
1412 exceed \$400 per test.

1413 (c) The department shall keep separate records with
1414 respect to requested pesticide analyses, including the pesticide
1415 analyzed, tests performed, fees collected, the name and address
1416 of the person who requested the analysis, and the name and
1417 address of the registrant.

1418 (d) All fees collected pursuant to this subsection shall
1419 be deposited into the General Inspection Trust Fund and shall be
1420 used by the department to implement this subsection.

1421 (e) In addition to any other penalty provided by this part
1422 ~~chapter~~, the registrant of any pesticide found to be
1423 adulterated, misbranded, or otherwise deficient shall reimburse
1424 the person requesting the pesticide analysis under this
1425 subsection for all fees assessed by and paid to the department.

1426 Section 38. Subsections (2), (3), and (4) of section
1427 487.081, Florida Statutes, are amended to read:

1428 487.081 Exemptions.--

1429 (2) No article shall be deemed in violation of this part
1430 ~~chapter~~ when intended solely for export to a foreign country and
1431 when prepared or packed according to the specifications or
1432 directions of the purchaser.

1433 (3) Notwithstanding any other provision of this part
 1434 ~~chapter~~, registration required under this part ~~chapter~~ is not
 1435 required in the case of a pesticide stored or shipped from one
 1436 manufacturing plant within this state to another manufacturing
 1437 plant within this state operated by the same person.

1438 (4) Nothing in this part ~~chapter~~ shall be construed to
 1439 apply to persons duly licensed or certified under chapter 388 or
 1440 chapter 482 performing any pest control or other operation for
 1441 which they are licensed or certified under those chapters.

1442 Section 39. Subsection (2) of section 487.091, Florida
 1443 Statutes, is amended to read:

1444 487.091 Tolerances, deficiencies, and penalties.--

1445 (2) If a pesticide is found by analysis to be deficient in
 1446 an active ingredient beyond the tolerance as provided in this
 1447 part ~~chapter~~, the registrant is subject to a penalty for the
 1448 deficiency, not to exceed \$10,000 per violation. However, no
 1449 penalty shall be assessed when the official sample was taken
 1450 from a pesticide that was in the possession of a consumer for
 1451 more than 45 days from the date of purchase by that consumer, or
 1452 when the product label specifies that the product should be used
 1453 by an expiration date that has passed. Procedures for assessing
 1454 penalties shall be established by rule, based on the degree of
 1455 the deficiency. Penalties assessed shall be paid to the consumer
 1456 or, in the absence of a known consumer, the department. If the
 1457 penalty is not paid within the prescribed period of time as
 1458 established by rule, the department may deny, suspend, or revoke
 1459 the registration of any pesticide.

1460 Section 40. Section 487.101, Florida Statutes, is amended
1461 to read:

1462 487.101 Stop-sale, stop-use, removal, or hold orders.--

1463 (1) When a pesticide or device is being offered or exposed
1464 for sale, used, or held in violation of any of the provisions of
1465 this part ~~chapter~~, the department may issue and enforce a stop-
1466 sale, stop-use, removal, or hold order, in writing, to the owner
1467 or custodian of the pesticide or device, ordering that the
1468 pesticide or device be held at a designated place until the part
1469 ~~chapter~~ has been complied with and the pesticide or device is
1470 released, in writing, by the department or the violation has
1471 been disposed of by court order.

1472 (2) The written notice is warning to all persons,
1473 including, but not limited to, the owner or custodian of the
1474 pesticide or the owner's or custodian's agents or employees, to
1475 scrupulously refrain from moving, bothering, altering, or
1476 interfering with the pesticide or device or from altering,
1477 defacing, or in any way interfering with the written notice or
1478 permitting the same to be done. The willful violation of these
1479 provisions is a misdemeanor, subjecting the violator to the
1480 penalty provisions of this part ~~chapter~~.

1481 (3) The department shall release the pesticide or device
1482 under a stop-sale, stop-use, removal, or hold order when the
1483 owner or custodian complies with the provisions of this part
1484 ~~chapter~~.

1485 (4) The owner or custodian, with authorization and
1486 supervision of the department, may relabel the pesticide or
1487 device so that the label will conform to the product, or

HB 1307 CS

2004
CS

1488 transfer and return the product to the manufacturer or supplier
 1489 for the purpose of bringing the product in compliance with the
 1490 provisions of this part ~~chapter~~.

1491 Section 41. Subsection (1) of section 487.111, Florida
 1492 Statutes, is amended to read:

1493 487.111 Seizure, condemnation, and sale.--

1494 (1) Any lot of pesticide or device not in compliance with
 1495 the provisions of this part ~~chapter~~ is subject to seizure on
 1496 complaint of the department to the circuit court in the county
 1497 in which the pesticide or device is located. In the event the
 1498 court finds the pesticide or device in violation of this part
 1499 ~~chapter~~ and orders it condemned, it shall be disposed of as the
 1500 court may direct; provided that in no instance shall the
 1501 disposition of the pesticide or device be ordered by the court
 1502 without first giving the owner or custodian an opportunity to
 1503 apply to the court for release of the pesticide or device or for
 1504 permission to process or relabel it to bring it into compliance
 1505 with this part ~~chapter~~.

1506 Section 42. Section 487.13, Florida Statutes, is amended
 1507 to read:

1508 487.13 Cooperation.--The department is authorized and
 1509 empowered to cooperate with and enter into agreements with any
 1510 other agency of this state, the United States Department of
 1511 Agriculture, the United States Environmental Protection Agency,
 1512 and any other state or federal agency for the purpose of
 1513 carrying out the provisions of this part ~~chapter~~ and securing
 1514 uniformity of regulations.

HB 1307 CS

2004
CS

1515 Section 43. Section 487.156, Florida Statutes, is amended
1516 to read:

1517 487.156 Governmental agencies.--All governmental agencies
1518 shall be subject to the provisions of this part ~~chapter~~ and
1519 rules adopted under this part ~~chapter~~. Public applicators using
1520 or supervising the use of restricted-use pesticides shall be
1521 subject to examination as provided in s. 487.044.

1522 Section 44. Subsection (1) of section 487.159, Florida
1523 Statutes, is amended to read:

1524 487.159 Damage or injury to property, animal, or person;
1525 mandatory report of damage or injury; time for filing; failure
1526 to file.--

1527 (1) The person claiming damage or injury to property,
1528 animal, or human beings from application of a pesticide shall
1529 file with the department a written statement claiming damages,
1530 on a form prescribed by the department, within 48 hours after
1531 the damage or injury becomes apparent. The statement shall
1532 contain, but shall not be limited to, the name of the person
1533 responsible for the application of the pesticide, the name of
1534 the owner or lessee of the land on which the crop is grown and
1535 for which the damages are claimed, and the date on which it is
1536 alleged that the damages occurred. The department shall
1537 investigate the alleged damages and notify all concerned parties
1538 of its findings. If the findings reveal a violation of the
1539 provisions of this part ~~chapter~~, the department shall determine
1540 an appropriate penalty, as provided in this part ~~chapter~~. The
1541 filing of a statement or the failure to file such a statement
1542 need not be alleged in any complaint which might be filed in a

HB 1307 CS

2004
CS

1543 | court of law, and the failure to file the statement shall not be
 1544 | considered any bar to the maintenance of any criminal or civil
 1545 | action.

1546 | Section 45. Section 487.161, Florida Statutes, is amended
 1547 | to read:

1548 | 487.161 Exemptions, nonagricultural pest control and
 1549 | research.--

1550 | (1) Any person duly licensed or certified under chapter
 1551 | 482, or under the supervision of chapter 388, is exempted from
 1552 | the licensing provisions of this part ~~chapter~~.

1553 | (2) The use of the antibiotic oxytetracycline
 1554 | hydrochloride for the purpose of controlling lethal yellowing is
 1555 | exempted from the licensing provisions of this part ~~chapter~~.

1556 | (3) The personnel of governmental, university, or
 1557 | industrial research agencies are exempted from the provisions of
 1558 | this part ~~chapter~~ when doing applied research within a
 1559 | laboratory, but shall comply with all the provisions of this
 1560 | part ~~chapter~~ when applying restricted-use pesticides to
 1561 | experimental or demonstration plots.

1562 | Section 46. Section 487.163, Florida Statutes, is amended
 1563 | to read:

1564 | 487.163 Information; interagency cooperation.--

1565 | (1) The department may, in cooperation with the University
 1566 | of Florida or other agencies of government, publish information
 1567 | and conduct short courses of instruction in the safe use and
 1568 | application of pesticides for the purpose of carrying out the
 1569 | provisions of this part ~~chapter~~.

1570 (2) The department may cooperate or enter into formal
1571 agreements with any other agency or educational institution of
1572 this state or its subdivisions or with any agency of any other
1573 state or of the Federal Government for the purpose of carrying
1574 out the provisions of this part ~~chapter~~ and of securing
1575 uniformity of regulations.

1576 Section 47. Subsections (1), (2), and (3) of section
1577 487.171, Florida Statutes, are amended to read:

1578 487.171 Classification of antifouling paint containing
1579 organotin compounds as restricted-use pesticides; prohibition of
1580 distribution and sale.--

1581 (1) The department shall classify antifouling paints
1582 containing organotin compounds having an acceptable release rate
1583 as restricted-use pesticides subject to the requirements of this
1584 part ~~chapter~~. Antifouling paints containing organotin having
1585 acceptable release rates and sold in spray cans of 16 ounces
1586 avoirdupois weight or less for outboard motor or lower unit use
1587 are exempt from the restricted-use pesticide classification
1588 requirement.

1589 (2) The department shall initiate action under chapter
1590 120, to deny or cancel the registration of antifouling paints
1591 containing organotin compounds which do not have an acceptable
1592 release rate or do not meet other criteria established by the
1593 department in accordance with this part ~~chapter~~.

1594 (3) Distribution, sale, and use of antifouling paints
1595 containing organotin compounds with acceptable release rates
1596 shall be limited to dealers and applicators licensed by the
1597 department in accordance with this part ~~chapter~~, to distribute,

HB 1307 CS

2004
CS

1598 | sell, or use restricted-use pesticides. Such paint may be
 1599 | applied only by licensed applicators and may be applied only to
 1600 | vessels which exceed 25 meters in length or which have aluminum
 1601 | hulls.

1602 | Section 48. Section 487.175, Florida Statutes, is amended
 1603 | to read:

1604 | 487.175 Penalties; administrative fine; injunction.--

1605 | (1) In addition to any other penalty provided in this part
 1606 | ~~chapter~~, when the department finds any person, applicant, or
 1607 | licensee has violated any provision of this part ~~chapter~~ or rule
 1608 | adopted under this part ~~chapter~~, it may enter an order imposing
 1609 | any one or more of the following penalties:

1610 | (a) Denial of an application for licensure.

1611 | (b) Revocation or suspension of a license.

1612 | (c) Issuance of a warning letter.

1613 | (d) Placement of the licensee on probation for a specified
 1614 | period of time and subject to conditions the department may
 1615 | specify by rule, including requiring the licensee to attend
 1616 | continuing education courses, to demonstrate competency through
 1617 | a written or practical examination, or to work under the direct
 1618 | supervision of another licensee.

1619 | (e) Imposition of an administrative fine not to exceed
 1620 | \$10,000 for each violation. When imposing any fine under this
 1621 | paragraph, the department shall consider the degree and extent
 1622 | of harm caused by the violation, the cost of rectifying the
 1623 | damage, the amount of money the violator benefited from by
 1624 | noncompliance, whether the violation was committed willfully,
 1625 | and the compliance record of the violator.

1626 (2) Any person who violates any provision of this part
 1627 ~~chapter~~ or rules adopted pursuant thereto commits a misdemeanor
 1628 of the second degree and upon conviction is punishable as
 1629 provided in s. ss. 775.082 or s. ~~and~~ 775.083. For a subsequent
 1630 violation, such person commits a misdemeanor of the first degree
 1631 and upon conviction is punishable as provided in s. ss. 775.082
 1632 or s. ~~and~~ 775.083.

1633 (3) In addition to the remedies provided in this part
 1634 ~~chapter~~ and notwithstanding the existence of any adequate remedy
 1635 at law, the department may bring an action to enjoin the
 1636 violation or threatened violation of any provision of this part
 1637 ~~chapter~~, or rule adopted under this part ~~chapter~~, in the circuit
 1638 court of the county in which the violation occurred or is about
 1639 to occur. Upon the department's presentation of competent and
 1640 substantial evidence to the court of the violation or threatened
 1641 violation, the court shall immediately issue the temporary or
 1642 permanent injunction sought by the department. The injunction
 1643 shall be issued without bond. A single act in violation of any
 1644 provision of this part ~~chapter~~ shall be sufficient to authorize
 1645 the issuance of an injunction.

1646 Section 49. Subsection (1) of section 482.242, Florida
 1647 Statutes, is amended to read:

1648 482.242 Preemption.--

1649 (1) This chapter is intended as comprehensive and
 1650 exclusive regulation of pest control in this state. The
 1651 provisions of this chapter preempt to the state all regulation
 1652 of the activities and operations of pest control services,
 1653 including the pesticides used pursuant to labeling and

HB 1307 CS

2004
CS

1654 registration approved under part I of chapter 487. No local
1655 government or political subdivision of the state may enact or
1656 enforce an ordinance that regulates pest control, except that
1657 the preemption in this section does not prohibit a local
1658 government or political subdivision from enacting an ordinance
1659 regarding any of the following:

1660 (a) Local occupational licenses adopted pursuant to
1661 chapter 205.

1662 (b) Land development regulations adopted pursuant to
1663 chapter 163 which include regulation of any aspect of
1664 development, including a subdivision, building construction,
1665 sign regulation or any other regulation concerning the
1666 development of land, or landscaping or tree protection
1667 ordinances which do not include pesticide application
1668 restrictions.

1669 (c) Regulations that:

1670 1. Require, for multicomplex dwellings in excess of 10
1671 units, annual termite inspections for termite activity or
1672 damage, including Formosan termites, which must be performed by
1673 a person licensed under this chapter.

1674 2. Require pest control treatments of structures that have
1675 termite activity or damage which must be performed by a person
1676 licensed under this chapter.

1677 3. Require property owners or other persons to obtain
1678 inspections or pest control treatments performed by a person
1679 licensed under this chapter.

1680

HB 1307 CS

2004
CS

1681 An ordinance by a local government or political subdivision
1682 which requires an annual inspection or pest control treatment
1683 must conform to current law.

1684 (d) Protection of wellhead protection areas and high
1685 recharge areas.

1686 (e) Hazardous materials reporting as set forth in part II
1687 of chapter 252, storage, and containment including as relating
1688 to stormwater management.

1689 (f) Hazardous material unlawful discharge and disposal.

1690 (g) Hazardous materials remediation.

1691 Section 50. Section 487.2011, Florida Statutes, is created
1692 to read:

1693 487.2011 Popular name; administration.--This part may be
1694 known by the popular name the "Florida Agricultural Worker
1695 Safety Act" and shall be administered by the Department of
1696 Agriculture and Consumer Services.

1697 Section 51. Section 487.2021, Florida Statutes, is created
1698 to read:

1699 487.2021 Legislative intent.--It is the intent of the
1700 Legislature to ensure that agricultural workers employed in the
1701 state receive protection from agricultural pesticides. The
1702 Legislature intends to ensure that agricultural workers be given
1703 information concerning agricultural pesticides.

1704 Section 52. Section 487.2031, Florida Statutes, is created
1705 to read:

1706 487.2031 Definitions.--For the purposes of this part, the
1707 term:

HB 1307 CS

2004
CS

1708 (1) "Agricultural employer" means any person who hires or
 1709 contracts for the services of workers to perform activities
 1710 related to the production of agricultural plants or any person
 1711 who is an owner of an agricultural establishment that uses such
 1712 workers.

1713 (2) "Agricultural establishment" means any farm, forest,
 1714 nursery, or greenhouse.

1715 (3) "Agricultural plant" means any plant grown or
 1716 maintained for commercial or research purposes and includes, but
 1717 is not limited to, food, feed, fiber plants, trees, turfgrass,
 1718 flowers, shrubs, ornamentals, and seedlings.

1719 (4) "Department" means the Department of Agriculture and
 1720 Consumer Services or its authorized representative.

1721 (5) "Designated representative" means any organization or
 1722 person to whom a worker gives written authorization to exercise
 1723 the right to request the agricultural pesticide information
 1724 pursuant to this part.

1725 (6) "Fact sheet" means any state or federally approved
 1726 fact sheet.

1727 (7) "Material safety data sheet" means written or printed
 1728 material concerning an agricultural pesticide which sets forth
 1729 the following information:

1730 (a) The chemical name and the common name of the
 1731 agricultural pesticide.

1732 (b) The hazards or other risks in the use of the
 1733 agricultural pesticide, including:

1734 1. The potential for fire, explosions, corrosivity, and
 1735 reactivity.

1736 2. The known acute health effects and chronic health
 1737 effects of exposure to the agricultural pesticide, including
 1738 those medical conditions that are generally recognized as being
 1739 aggravated by exposure to the agricultural pesticide.

1740 3. The primary routes of entry and symptoms of
 1741 overexposure.

1742 (c) The proper precautions, handling practices, necessary
 1743 personal protective equipment, and other safety precautions in
 1744 the use of or exposure to the agricultural pesticide, including
 1745 appropriate emergency treatment in case of overexposure.

1746 (d) The emergency procedures for spills, fire, disposal,
 1747 and first aid.

1748 (e) A description of the known specific potential health
 1749 risks posed by the agricultural pesticide, which description is
 1750 written in lay terms and is intended to alert any person who
 1751 reads the information.

1752 (f) The year and the month, if available, that the
 1753 information was compiled and the name, address, and emergency
 1754 telephone number of the manufacturer responsible for preparing
 1755 the information.

1756 (8) "Retaliation" means actions, such as dismissal,
 1757 demotion, harassment, blacklisting with other employers,
 1758 reducing pay or work hours, or taking away company housing, by
 1759 any agricultural employer against any worker who exercises any
 1760 right under the United States Environmental Protection Agency
 1761 Worker Protection Standard, 40 C.F.R. s. 1707(b), or this part.

1762 (9) "Trainer" means any person who is qualified to train
 1763 workers under the pesticide safety training requirements of the

HB 1307 CS

2004
CS

1764 United States Environmental Protection Agency Worker Protection
1765 Standard, 40 C.F.R. s. 170.130.

1766 (10) "Worker" means any person, including a farmworker or
1767 a self-employed person, who is employed for any type of
1768 compensation and who is performing activities relating to the
1769 production of agricultural plants on an agricultural
1770 establishment. The term "worker" does not include any person
1771 employed by a commercial pesticide-handling establishment to
1772 perform tasks as a crop advisor.

1773 Section 53. Section 487.2041, Florida Statutes, is created
1774 to read:

1775 487.2041 Enforcement of federal worker protection
1776 regulations.--The department shall, to the extent that resources
1777 are available, continue to operate under the regulations
1778 established by the United States Environmental Protection Agency
1779 Labeling Requirement for Pesticides and Devices, 40 C.F.R. part
1780 156, and the Worker Protection Standard, 40 C.F.R. part 170,
1781 which the department adopted by rule during the 1995-1996 fiscal
1782 year and published in the Florida Administrative Code. Any
1783 provision of this part not preempted by federal law shall
1784 continue to apply.

1785 Section 54. Section 487.2051, Florida Statutes, is created
1786 to read:

1787 487.2051 Availability of agricultural pesticide
1788 information to workers and medical personnel.--

1789 (1)(a) The agricultural employer shall make available
1790 agricultural pesticide information concerning any agricultural
1791 pesticide to any worker who enters an agricultural pesticide-

1792 treated area on an agricultural establishment where, within the
 1793 last 30 days, an agricultural pesticide has been applied or a
 1794 restricted-entry interval has been in effect or to any worker
 1795 who may be exposed to the agricultural pesticide during normal
 1796 conditions of use or in a foreseeable emergency.

1797 (b) The agricultural pesticide information shall be in the
 1798 form of a material safety data sheet or a state or federally
 1799 approved fact sheet. The agricultural employer shall provide a
 1800 written copy of the information specified in this section within
 1801 2 working days after a request for the information by a worker
 1802 or a designated representative of the worker. In case of a
 1803 pesticide-related medical emergency, the information shall be
 1804 provided promptly upon request to the worker or medical
 1805 personnel treating the worker.

1806 (c) Upon the initial purchase of a product and with the
 1807 first purchase after the material safety data sheet is updated,
 1808 the distributor, manufacturer, or importer of agricultural
 1809 pesticides shall obtain or develop and provide each direct
 1810 purchaser of agricultural pesticides with a material safety data
 1811 sheet. If the material safety data sheet or fact sheet for the
 1812 agricultural pesticide is not available at the time the
 1813 agricultural pesticide is purchased, the agricultural employer
 1814 shall take appropriate and timely steps to obtain the material
 1815 safety data sheet or fact sheet from the distributor, the
 1816 manufacturer, the department, a federal agency, or another
 1817 distribution source.

1818 (2) The department shall make available to a trainer a
 1819 one-page general agricultural pesticide safety sheet designed by

HB 1307 CS

2004
CS

1820 the department. The safety sheet must be in a language
 1821 understandable to the worker and must include, but is not
 1822 limited to, illustrated instructions on prevention of
 1823 agricultural pesticide exposure and toll-free numbers to the
 1824 Florida Poison Control Centers. The trainer shall provide the
 1825 safety sheet to the worker pursuant to the United States
 1826 Environmental Protection Agency Worker Protection Standard, 40
 1827 C.F.R. s. 170.130.

1828 Section 55. Section 487.2061, Florida Statutes, is created
 1829 to read:

1830 487.2061 Prohibited acts.--It is unlawful for any person
 1831 to:

1832 (1) Fail to provide agricultural pesticide information as
 1833 provided for in this part.

1834 (2) Take any retaliatory action against any worker for
 1835 exercising any right under the provisions of the United States
 1836 Environmental Protection Agency Worker Protection Standard, 40
 1837 C.F.R. s. 170.7(b), or this part.

1838 Section 56. Section 487.2071, Florida Statutes, is created
 1839 to read:

1840 487.2071 Penalties against violators; worker relief;
 1841 monitoring complaints of retaliation.--

1842 (1) Penalties set forth in part I of this chapter shall be
 1843 applied to any person who violates any provision in this part.

1844 Persons violating provisions of this part shall also be subject
 1845 to the federal penalties in the United States Environmental
 1846 Protection Agency Worker Protection Standard, 40 C.F.R., s.
 1847 170.9(b).

1848 (2)(a) Any worker who has been retaliated against by any
 1849 person for exercising any right under the United States
 1850 Environmental Protection Agency Worker Protection Standard, 40
 1851 C.F.R. s. 170.7(b), or this part, and seeks relief may file a
 1852 complaint with the department of such retaliation.

1853 (b) In any action brought pursuant to this section where
 1854 the retaliatory personnel action is predicated upon the
 1855 disclosure of an illegal activity, policy, or practice to an
 1856 appropriate governmental agency, the worker shall not be
 1857 required to show that the disclosure to the governmental agency
 1858 was under oath or in writing or that the notification to the
 1859 employer concerning the illegal activity, policy, or practice
 1860 was in writing.

1861 (3) The department shall monitor all complaints of
 1862 retaliation that it receives and report its findings to the
 1863 President of the Senate and the Speaker of the House of
 1864 Representatives on or before October 1, 2008. The report shall
 1865 include the number of such complaints received, the
 1866 circumstances surrounding the complaints, and the actions taken
 1867 concerning the complaints.

1868 Section 57. Paragraph (x) of subsection (1) of section
 1869 500.03, Florida Statutes, is amended to read:

1870 500.03 Definitions; construction; applicability.--

1871 (1) For the purpose of this chapter, the term:

1872 (x) "Pesticide chemical" means any substance which, alone,
 1873 in chemical combination, or in formulation with one or more
 1874 other substances is a "pesticide" within the meaning of the
 1875 Florida Pesticide Law, part I of chapter 487, and which is used

HB 1307 CS

2004
CS

1876 | in the production, storage, or transportation of raw
1877 | agricultural commodities.

1878 | Section 58. Subsections (1) and (6) of section 570.44,
1879 | Florida Statutes, are amended to read:

1880 | 570.44 Division of Agricultural Environmental Services;
1881 | powers and duties.--The duties of the Division of Agricultural
1882 | Environmental Services include, but are not limited to:

1883 | (1) Inspecting and drawing samples of: commercial feeds
1884 | offered for sale in this state and enforcing those provisions of
1885 | chapter 580 authorized by the department; seeds offered for sale
1886 | in this state and enforcing those provisions of chapter 578
1887 | authorized by the department; certified seed grown in this
1888 | state; fertilizers offered for sale in this state and enforcing
1889 | those provisions of chapter 576 authorized by the department;
1890 | and pesticides offered for sale in this state, and soil and
1891 | water in this state for the presence of pesticides, and
1892 | enforcing those provisions of part I of chapter 487 authorized
1893 | by the department.

1894 | (6) Analyzing samples of pesticide formulations offered
1895 | for sale in this state and tank mix, soil, water, and other
1896 | environmental samples related to pesticide use investigations,
1897 | as required under part I of chapter 487.

1898 | Section 59. In editing manuscript for the next edition of
1899 | the official Florida Statutes, the Division of Statutory
1900 | Revision shall designate ss. 487.011-487.175, Florida Statutes,
1901 | as part I of chapter 487, the "Florida Pesticide Law," and ss.
1902 | 487.2011-487.2071, Florida Statutes, as created by this act, as

HB 1307 CS

2004
CS

1903 | part II of chapter 487, the "Florida Agricultural Worker Safety
1904 | Act."

1905 | Section 60. This act shall take effect July 1, 2004.