

1 A bill to be entitled

2 An act relating to agricultural and migrant labor;
3 providing a popular name; amending s. 381.008, F.S.;
4 revising a definition; amending s. 381.0086, F.S.;
5 requiring the Department of Health to adopt rules relating
6 to residential migrant housing; providing guidelines for
7 the filing of interstate clearance orders; amending s.
8 381.0087, F.S.; revising a provision relating to who may
9 issue certain citations; requiring the department to
10 provide notice of suspected violations; amending s.
11 403.088, F.S.; clarifying a provision relating to water
12 pollution operation permits; amending s. 450.191, F.S.;
13 authorizing and directing the Executive Office of the
14 Governor to advise and consult on certain issues relating
15 to migrant and seasonal workers; directing the office to
16 coordinate enforcement of certain provisions with the
17 Department of Business and Professional Regulation;
18 including farm labor contractors in the enforcement of
19 certain laws; authorizing and directing the office to
20 cooperate with the Agency for Workforce Innovation in the
21 recruitment and referral of migrant workers and certain
22 other laborers; amending s. 450.201, F.S.; renaming the
23 Legislative Commission on Migrant Labor as the Legislative
24 Commission on Migrant and Seasonal Labor; providing a
25 deadline for appointments to the commission; providing a
26 deadline for the commission's first meeting; amending s.
27 450.231, F.S.; providing a deadline for certain reports;
28 amending s. 450.27, F.S.; providing a popular name;

29 | amending s. 450.271, F.S.; authorizing the department to
30 | enter into certain agreements with the Secretary of Labor
31 | of the United States; amending s. 450.28, F.S.; providing
32 | definitions; amending s. 450.30, F.S.; revising
33 | requirements for retaking examinations for renewal of
34 | certificates of registration; requiring fees for certain
35 | programs to be deposited in the Professional Regulation
36 | Trust Fund; amending s. 450.31, F.S.; providing criteria
37 | for issuance or renewal of certificates of registration;
38 | authorizing payment for certificates of registration by
39 | cashier's check; increasing the application fee for such
40 | registration; requiring fees to be deposited in the
41 | Professional Regulation Trust Fund; providing criteria for
42 | revocation, suspension, or refusal to issue or renew
43 | certificates of registration; conforming a provision;
44 | providing criteria for permanent revocation or refusal to
45 | issue or renew certificates of registration; authorizing
46 | the department to inspect certain documents upon receipt
47 | and acceptance of a certificate of registration; creating
48 | s. 450.321, F.S.; creating the best practices incentive
49 | program for farm labor contractors; requiring farm labor
50 | contractors to meet certain requirements; restricting the
51 | transfer or unauthorized use of best practices
52 | designations; authorizing the department to enter into
53 | certain partnership agreements; authorizing the department
54 | to revoke certain designations; providing that certain
55 | designations are not department endorsements; limiting
56 | certain civil liability of the department; requiring the

57 | department to establish an incentive program; amending s.
58 | 450.33, F.S.; removing department requirements for the
59 | suspension or revocation of farm labor contractors'
60 | certificates of registration; requiring farm labor
61 | contractors to keep certain records; amending s. 450.34,
62 | F.S.; providing certain prohibited acts for farm labor
63 | contractors; amending s. 450.35, F.S.; prohibiting certain
64 | contracts or employment; providing penalties; amending s.
65 | 450.37, F.S.; authorizing the department to enter into
66 | agreements with other state agencies for certain purposes;
67 | amending s. 450.38, F.S.; providing civil and criminal
68 | penalties for minor and major violations; increasing
69 | certain civil penalties; authorizing payment of certain
70 | civil penalties by cashier's check; removing authorization
71 | to pay certain civil penalties by cash; increasing the
72 | scope of where a complaint may be filed; providing for a
73 | warning to contractors committing minor violations;
74 | providing civil penalties for contractors committing major
75 | violations; creating s. 450.39, F.S.; providing guidelines
76 | for the sale of certain commodities to farmworkers;
77 | providing a definition; amending s. 487.011, F.S.;
78 | providing a popular name; amending ss. 487.012, 487.021,
79 | 487.025, 487.031, 487.041, 487.0435, 487.045, 487.046,
80 | 487.047, 487.049, 487.051, 487.0615, 487.071, 487.081,
81 | 487.091, 487.101, 487.111, 487.13, 487.156, 487.159,
82 | 487.161, 487.163, 487.171, and 487.175, F.S.; revising
83 | references to make the "Florida Pesticide Law" part I of
84 | ch. 487, F.S.; amending s. 482.242, F.S.; clarifying a

85 provision relating to the labeling and registration of
 86 approved pesticides; creating s. 487.2011, F.S., the
 87 "Florida Agricultural Worker Safety Act"; providing for
 88 administration by the Department of Agriculture and
 89 Consumer Services; creating s. 487.2021, F.S.; providing
 90 legislative intent; creating s. 487.2031, F.S.; providing
 91 definitions; creating s. 487.2041, F.S.; providing
 92 enforcement of federal worker protection regulations;
 93 creating s. 487.2051, F.S.; requiring agricultural
 94 employers to make certain pesticide information available;
 95 creating s. 487.2061, F.S.; prohibiting certain acts;
 96 creating s. 487.2071, F.S.; providing penalties; requiring
 97 monitoring and reporting of complaints; amending ss.
 98 500.03 and 570.44, F.S.; clarifying provisions relating to
 99 the definition of the term "pesticide chemical" and duties
 100 of the Division of Agricultural Environmental Services,
 101 respectively; amending s. 440.16, F.S.; deleting a
 102 provision relating to compensation paid to dependents of
 103 aliens; directing the Division of Statutory Revision to
 104 designate parts I and II of ch. 487, F.S.; providing
 105 appropriations and authorizing positions; providing an
 106 effective date.

107
 108 Be It Enacted by the Legislature of the State of Florida:

109
 110 Section 1. This act may be known by the popular name the
 111 "Alfredo Bahena Act."

112 Section 2. Subsection (8) of section 381.008, Florida
 113 Statutes, is amended to read:

114 381.008 Definitions of terms used in ss. 381.008-
 115 381.00897.--As used in ss. 381.008-381.00897, the following
 116 words and phrases mean:

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

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

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

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

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

133 Section 3. Subsections (1) and (2) of section 381.0086,
 134 Florida Statutes, are amended, and subsection (6) is added to
 135 said section, to read:

136 381.0086 Rules; variances; penalties.--

137 (1) The department shall adopt rules necessary to protect
 138 the health and safety of migrant farmworkers ~~farm workers~~ and
 139 other migrant labor camp or residential migrant housing

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

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

160 (a) Clearly specify the standard from which the variance
 161 is desired.+

162 (b) Provide adequate justification that the variance is
 163 necessary to obtain a beneficial use of an existing facility and
 164 to prevent a practical difficulty or unnecessary hardship.+~~and~~

165 (c) Clearly set forth the specific alternative measures
 166 that the owner or operator has taken to protect the health and
 167 safety of occupants and adequately show that the alternative

168 | measures have achieved the same result as the standard from
 169 | which the variance is sought.

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

174 | Section 4. Subsections (1) and (6) of section 381.0087,
 175 | Florida Statutes, are amended, and subsection (9) is added to
 176 | said section, to read:

177 | 381.0087 Enforcement; citations.--

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

192 | (6) Any person who willfully refuses to sign and accept a
 193 | citation issued by the department commits ~~or the Department of~~
 194 | ~~Labor and Employment Security is guilty of~~ a misdemeanor of the

195 | second degree, punishable as provided in s. 775.082 or s.
196 | 775.083.

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

199 | Section 5. Subsection (1) of section 403.088, Florida
200 | Statutes, is amended to read:

201 | 403.088 Water pollution operation permits; conditions.--

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

223 Section 6. Subsection (1) of section 450.191, Florida
 224 Statutes, is amended to read:

225 450.191 Executive Office of the Governor; powers and
 226 duties.--

227 (1) The Executive Office of the Governor is authorized and
 228 directed to:

229 (a) Advise and consult with ~~employers of migrant~~ and
 230 seasonal workers and their employers as to the ways and means of
 231 improving living and working conditions of migrant and seasonal
 232 workers. ‡

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

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

241 (d) Cooperate with the Department of Business and
 242 Professional Regulation ~~other departments of government~~ in
 243 coordinating and enforcing all applicable labor laws, including,
 244 but not limited to, those relating to private employment
 245 agencies, child labor, wage payments, wage claims, and farm
 246 labor contractors. ~~crew leaders;~~

247 (e) Cooperate with the Department of Education to provide
 248 educational facilities for the children of migrant laborers. ‡

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

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

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

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

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

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

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

275 450.201 Legislative Commission on Migrant and Seasonal
 276 Labor; membership; filling vacancies.--

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

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

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

295 Section 8. Section 450.231, Florida Statutes, is amended
 296 to read:

297 450.231 Annual reports to Legislature.--The commission
 298 shall report its findings, recommendations, and proposed
 299 legislation to each regular session of the Legislature no later
 300 than February 1 of each year beginning in 2006.

301 Section 9. Section 450.27, Florida Statutes, is amended to
 302 read:

303 450.27 Short title.--This part shall be known by the
 304 popular name ~~may be cited as~~ the "Farm Labor Contractor
 305 Registration Law."

306 Section 10. Section 450.271, Florida Statutes, is amended
 307 to read:

308 450.271 State administration of the Migrant and Seasonal
 309 Agricultural Worker Protection Act.--The Department of Business
 310 and Professional Regulation ~~Labor and Employment Security~~ may
 311 enter into agreements with the Secretary of Labor of the United
 312 States to authorize the department to administer within the
 313 State of Florida the provisions of the Migrant and Seasonal
 314 Agricultural Worker Protection Act of 1983, as amended.

315 Section 11. Subsections (5) and (6) are added to section
 316 450.28, Florida Statutes, to read:

317 450.28 Definitions.--

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

323 (6) "Major violation" means a violation of a specific
 324 state or federal law or rule that results in economic or
 325 physical harm to any person recruited, transported, supplied, or
 326 hired by a farm labor contractor or creates a significant threat
 327 of such harm.

328 Section 12. Subsections (6) and (7) of section 450.30,
 329 Florida Statutes, are amended to read:

330 450.30 Requirement of certificate of registration;
 331 education and examination program.--

332 (6) The department shall require an applicant for renewal
 333 of a certificate of registration to retake the examination only
 334 if:

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

339 (b) The department determines that new requirements
 340 related to the duties and responsibilities of a farm labor
 341 contractor necessitate a new examination.

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

346 Section 13. Subsections (1) and (2) of section 450.31,
 347 Florida Statutes, are amended, and subsections (5) and (6) are
 348 added to said section, to read:

349 450.31 Issuance, revocation, and suspension of, and
 350 refusal to issue or renew, certificate of registration.--

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

354 (a) Such person has executed a written application
 355 therefor in a form and pursuant to regulations prescribed by the
 356 department and has submitted such information as the department
 357 may prescribe.

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

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

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

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

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

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

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

382 (c) Given false or misleading information concerning
 383 terms, conditions, or existence of employment to persons who are
 384 recruited or hired to work on a farm; ~~-~~

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

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

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

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

393 (5) The department may permanently revoke or refuse to
 394 issue or renew a certificate of registration if such applicant
 395 or certificate holder has been convicted within the preceding 5
 396 years of:

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

398 1. Relating to gambling, or to the sale, distribution, or
 399 possession of alcoholic beverages.

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

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

408 (6) Receipt and acceptance of a certificate of
 409 registration as a farm labor contractor constitutes
 410 unconditional permission for and acquiescence by the contractor
 411 to the inspection by department personnel of books, ledgers, and

412 all other documents that are related to the performance of the
 413 contractor's farm labor activities.

414 Section 14. Section 450.321, Florida Statutes, is created
 415 to read:

416 450.321 Best practices incentive program for farm labor
 417 contractors.--

418 (1) To promote compliance with this part, and to help the
 419 public identify farm labor contractors who have demonstrated a
 420 firm commitment to responsible and safe labor practices, the
 421 department shall develop and implement a best practices
 422 incentive program for farm labor contractors.

423 (2) Farm labor contractors who seek designation as a best
 424 practices farm labor contractor must meet the requirements set
 425 by the department. A farm labor contractor may not transfer or
 426 use without authorization a designation as a best practices farm
 427 labor contractor.

428 (3) The department may enter into a partnership agreement
 429 with a farm labor contractor that states the responsibilities of
 430 each party to the agreement regarding the requirements to
 431 receive and maintain a best practices designation. Recipients of
 432 a designation as a best practices farm labor contractor may use
 433 this designation when soliciting business as long as the
 434 designation is in effect.

435 (4) A designation as a best practices farm labor
 436 contractor may be revoked when the department determines that
 437 the recipient has failed to comply with a requirement
 438 established pursuant to subsection (2). When a designation is
 439 revoked, the prior recipient shall cease all use of the best

440 practices farm labor contractor designation when soliciting
 441 business.

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

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

449 (7) The department shall establish an incentive program
 450 for farm labor contractors who hold a valid best practices
 451 designation.

452 Section 15. Subsection (10) of section 450.33, Florida
 453 Statutes, is amended, and subsection (11) is added to said
 454 section, to read:

455 450.33 Duties of farm labor contractor.--Every farm labor
 456 contractor must:

457 (10) Comply with all applicable statutes, rules, and
 458 regulations of the United States and of the State of Florida for
 459 the protection or benefit of labor, including, but not limited
 460 to, those providing for wages, hours, fair labor standards,
 461 social security, workers' compensation, unemployment
 462 compensation, child labor, and transportation. ~~The department~~
 463 ~~shall not suspend or revoke a certificate of registration~~
 464 ~~pursuant to this subsection unless:~~

465 ~~(a) A court or agency of competent jurisdiction renders a~~
 466 ~~judgment or other final decision that a violation of one of the~~

467 ~~laws, rules, or regulations has occurred and, if invoked, the~~
 468 ~~appellate process is exhausted;~~

469 ~~(b) An administrative hearing pursuant to ss. 120.569 and~~
 470 ~~120.57 is held on the suspension or revocation and the~~
 471 ~~administrative law judge finds that a violation of one of the~~
 472 ~~laws, rules, or regulations has occurred and, if invoked, the~~
 473 ~~appellate process is exhausted; or~~

474 ~~(c) The holder of a certificate of registration stipulates~~
 475 ~~that a violation has occurred or defaults in the administrative~~
 476 ~~proceedings brought to suspend or revoke his or her~~
 477 ~~registration.~~

478 (11) Maintain accurate daily field records for each
 479 employee actually paid by the farm labor contractor reflecting
 480 the hours worked for the farm labor contractor and, if paid by
 481 unit, the number of units harvested and the amount paid per
 482 unit.

483 Section 16. Subsections (4) and (5) are added to section
 484 450.34, Florida Statutes, to read:

485 450.34 Prohibited acts of farm labor contractor.--A
 486 licensee may not:

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

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

494 Section 17. Section 450.35, Florida Statutes, is amended
 495 to read:

496 450.35 Certain contracts or employment prohibited.--It is
 497 unlawful for any person to contract with or employ ~~for the~~
 498 ~~employment of farm workers~~ with any farm labor contractor as
 499 defined in this act, for matters relating to farm labor, until
 500 the labor contractor displays to him or her a current
 501 certificate of registration issued by the department pursuant to
 502 the requirements of this part. A violation of this section is
 503 subject to the penalties provided for violations in s.
 504 450.38(1).

505 Section 18. Section 450.37, Florida Statutes, is amended
 506 to read:

507 450.37 Cooperation with state and federal agencies.--The
 508 department shall, whenever appropriate, cooperate with any
 509 federal agency. The department may cooperate with and enter into
 510 agreements with any other state agency to administer this
 511 chapter or secure uniform rules.

512 Section 19. Section 450.38, Florida Statutes, is amended
 513 to read:

514 450.38 Enforcement of farm labor ~~contractor~~ laws.--

515 (1) Any person, firm, association, or corporation not
 516 excluded under s. 450.29 that commits a minor violation ~~who~~
 517 ~~violates any provision~~ of this part and, upon conviction, is
 518 guilty of ~~commits~~ a misdemeanor of the second degree, is
 519 punishable as provided in s. 775.082 or s. 775.083.

520 (2) Any person, firm, association, or corporation that
 521 commits a major violation of this part and, upon conviction, is

522 guilty of a felony of the third degree, is punishable as
 523 provided in s. 775.082, s. 775.083, or s. 775.084.

524 (3)(2) Any person, firm, association, or corporation that
 525 ~~who, on or after June 19, 1985,~~ commits a violation of this part
 526 or of any rule adopted thereunder may be assessed a civil
 527 penalty of not more than \$2,500 ~~\$1,000~~ for each such violation.
 528 Such assessed penalties shall be paid by cashier's check ~~in~~
 529 ~~cash,~~ certified check, or money order and shall be deposited
 530 into the General Revenue Fund. The department shall not
 531 institute or maintain any administrative proceeding to assess a
 532 civil penalty under this subsection when the violation is the
 533 subject of a criminal indictment or information under this
 534 section which results in a criminal penalty being imposed, or of
 535 a criminal, civil, or administrative proceeding by the United
 536 States government or an agency thereof which results in a
 537 criminal or civil penalty being imposed. The department may
 538 adopt rules prescribing the criteria to be used to determine the
 539 amount of the civil penalty and to provide notification to
 540 persons assessed a civil penalty under this section.

541 (4)(3) Upon a complaint of the department being filed in
 542 the circuit court of the county in which the farm labor
 543 contractor resides or may be doing business, any farm labor
 544 contractor who fails to obtain a certificate of registration as
 545 required by this part may, in addition to such penalties, be
 546 enjoined from engaging in any activity which requires the farm
 547 labor contractor to possess a certificate of registration.

548 (5)(4) For the purpose of any investigation or proceeding
 549 conducted by the department, the secretary of the department or

550 the secretary's designee shall have the power to administer
551 oaths, take depositions, make inspections when authorized by
552 statute, issue subpoenas which shall be supported by affidavit,
553 serve subpoenas and other process, and compel the attendance of
554 witnesses and the production of books, papers, documents, and
555 other evidence. The secretary of the department or the
556 secretary's designee shall exercise this power on the
557 secretary's own initiative.

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

563 (7) A farm labor contractor who commits a major violation
564 of a specific statute or rule of this part shall be assessed a
565 civil penalty of up to \$2,500 in accordance with the criteria
566 established by the department pursuant to s. 450.38.

567 Section 20. Section 450.39, Florida Statutes, is created
568 to read:

569 450.39 Prohibition against required purchase; prohibition
570 against excessive charges.--

571 (1) A farm labor contractor may not require any farmworker
572 to purchase goods or services solely from such farm labor
573 contractor or from a person acting as an agent for such farm
574 labor contractor.

575 (2) A farm labor contractor may not charge a farmworker
576 more than a reasonable cost for any commodity, including
577 housing, food, water, or other consumables, in accordance with

578 Title 29 C.F.R. s. 531.3. As used in this subsection, the term
 579 "reasonable cost" does not include a profit to the farm labor
 580 contractor or to any other person acting as an agent for the
 581 farm labor contractor.

582 Section 21. Section 487.011, Florida Statutes, is amended
 583 to read:

584 487.011 Popular name ~~Short title~~; administration.--This
 585 part shall ~~chapter may~~ be known by the popular name ~~cited as~~ the
 586 "Florida Pesticide Law" and shall be administered by the
 587 Department of Agriculture and Consumer Services.

588 Section 22. Section 487.012, Florida Statutes, is amended
 589 to read:

590 487.012 Declaration of purpose.--The purpose of this part
 591 ~~chapter~~ is to regulate the distribution, sale, and use of
 592 pesticides, except as provided in chapters 388 and 482, and to
 593 protect people and the environment from the adverse effects of
 594 pesticides.

595 Section 23. Section 487.021, Florida Statutes, is amended
 596 to read:

597 487.021 Definitions.--For the purpose of this part
 598 ~~chapter~~:

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

606 (2) "Active ingredient" means:

607 (a) In the case of a pesticide other than a plant
 608 regulator, defoliant, or desiccant, an ingredient which will
 609 prevent, destroy, repel, or mitigate insects, nematodes, fungi,
 610 rodents, weeds, or other pests.

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

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

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

619 (3) "Added ingredient" means any plant nutrient or plant
 620 regulator added to the mixture which is not an active pesticidal
 621 ingredient, but which the manufacturer wishes to show on the
 622 label.

623 (4) "Adulterated" applies to any pesticide if its strength
 624 or purity falls below or is in excess of the professed standard
 625 of quality as expressed on labeling or under which it is sold,
 626 if any substance has been substituted wholly or in part for the
 627 pesticide or if any valuable constituent of the pesticide has
 628 been wholly or in part abstracted.

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

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

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

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

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

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

645 (11) "Antisiphon device" means a safety device used to
646 prevent the backflow of a mixture of water and chemicals into
647 the water supply.

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

651 (13) "Brand" means the name, number, trademark, or any
652 other designation which distinguishes one pesticide product from
653 another.

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

658 (15) "Certified applicator" means any individual who has
659 been recognized by the department as a competent pesticide

660 applicator and, thus, is eligible to apply for licensure in one
 661 or more of the designated license types and categories.

662 (16) "Commercial applicator" means an individual who has
 663 reached the age of majority and is licensed by the department to
 664 use or supervise the use of any restricted-use pesticide for any
 665 purpose on any property other than as provided by the
 666 definitions of "private applicator," "product specific
 667 applicator," or "public applicator," whether or not the
 668 individual is a private applicator with respect to some uses.

669 (17) "Dealer" means any person, other than the
 670 manufacturer or distributor, who offers for sale, sells,
 671 barter, or otherwise supplies pesticides to the ultimate user
 672 or consumer.

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

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

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

681 (21) "Desiccant" means any substance or mixture of
 682 substances intended for artificially accelerating the drying of
 683 plant tissues.

684 (22) "Device" means any instrument or contrivance (other
 685 than a firearm) which is intended for trapping, destroying,
 686 repelling, or mitigating, any pest or other form of plant or
 687 animal life (other than human and other than bacteria, virus, or

688 other microorganism on or in living humans or other living
689 animals); but not including equipment used for the application
690 of pesticides when sold separately.

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

693 (24) "Distributor" means any person who offers for sale,
694 holds for sale, sells, barter, or supplies pesticides in this
695 state.

696 (25) "Emergency exemption" means an exemption as
697 authorized in s. 18 of the Federal Insecticide, Fungicide, and
698 Rodenticide Act.

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

701 (27) "Equipment" means any type of ground, aquatic, or
702 aerial device used to apply any pesticide on land, and on
703 anything that may be growing, habituating, or stored on or in
704 the land. Equipment does not include any pressurized hand-size
705 household device used to apply any pesticide, or any other
706 device where the person applying the pesticide is the source of
707 power for applying the pesticide.

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

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

714 (30) "Fungi" means all non-chlorophyll-bearing
715 thallophytes (that is, all non-chlorophyll-bearing plants of a

716 | lower order than mosses and liverworts), as, for example, rusts,
717 | smuts, mildews, molds, yeasts, and bacteria, except those on or
718 | in living humans or other animals.

719 | (31) "Highly toxic" means any highly poisonous pesticide
720 | as determined by the rules promulgated pursuant to this part
721 | ~~chapter~~.

722 | (32) "Imminent hazard" means a situation which exists when
723 | the continued use of a pesticide during the time required for
724 | cancellation proceedings would be likely to result in
725 | unreasonable adverse effects on the environment or will involve
726 | unreasonable hazard to the survival of a species declared
727 | endangered.

728 | (33) "Ineffective" means that pesticides such as
729 | bacteriostats, disinfectants, germicides, sanitizers, and like
730 | products fail to meet microbiological claims when tested in the
731 | laboratory utilizing the officially approved procedures of the
732 | Association of Official Analytical Chemists or other methods or
733 | procedures as the department may find necessary.

734 | (34) "Inert ingredient" means an ingredient which is not
735 | an active ingredient.

736 | (35) "Ingredient statement" means a statement of the name
737 | and percentage by weight of each active ingredient, together
738 | with the total percentage of the inert ingredients in the
739 | pesticides.

740 | (36) "Insect" means any of the numerous small invertebrate
741 | animals generally having the body more or less obviously
742 | segmented, for the most part belonging to the class Insecta,
743 | comprising six legs, usually in winged form (as, for example,

744 beetles, bugs, bees, and flies) and to other allied classes and
 745 arthropods whose members are wingless and usually have more than
 746 six legs (as, for example, spiders, mites, ticks, centipedes,
 747 and wood lice).

748 (37) "Irrigation system" means any device or combination
 749 of devices having a hose, pipe, or other conduit which connects
 750 directly to any source of ground or surface water, through which
 751 device or combination of devices water or a mixture of water and
 752 chemicals is drawn and applied for agricultural purposes. The
 753 term does not include any handheld hose sprayer or other similar
 754 device which is constructed so that an interruption in water
 755 flow automatically prevents any backflow to the water source.

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

759 (39) "Labeling" means all labels and other written,
 760 printed, or graphic matter referencing the pesticide or device
 761 or upon any of its containers or wrappers, or accompanying the
 762 pesticide or device at any time, but does not include accurate,
 763 nonmisleading reference to current official publications of the
 764 United States Departments of Agriculture or Interior, the
 765 Environmental Protection Agency, the United States Public Health
 766 Service, state experiment stations, state agricultural colleges,
 767 or other similar federal institutions or official agencies of
 768 this state or other states authorized by law to conduct research
 769 in the field of pesticides.

770 (40) "Land" means all land and water areas, including
 771 airspace.

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

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

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

782 (44) "Nematode" means invertebrate animals of the phylum
 783 Nematelminthes and class Nematoda (that is, unsegmented round
 784 worms with elongated, fusiform, or saclike bodies covered with
 785 cuticle and inhabiting soil, water, plants, or plant parts), and
 786 may also be known as nemas or eelworms.

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

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

793 (47) "Percent" means one one-hundredth part by weight or
 794 volume.

795 (48) "Pest" means:

- 796 (a) Any insect, rodent, nematode, fungus, weed; or
- 797 (b) Any other form of terrestrial or aquatic plant or
- 798 animal life or virus, bacteria, or other microorganism, except
- 799 viruses, bacteria, or other microorganisms on or in living

800 humans or other living animals, which is declared to be a pest
 801 by the administrator of the United States Environmental
 802 Protection Agency or which may be declared to be a pest by the
 803 department by rule.

804 (49) "Pesticide" means any substance or mixture of
 805 substances intended for preventing, destroying, repelling, or
 806 mitigating any insects, rodents, nematodes, fungi, weeds, or
 807 other forms of plant or animal life or viruses, except viruses,
 808 bacteria, or fungi on or in living humans or other animals,
 809 which the department by rule declares to be a pest, and any
 810 substance or mixture of substances intended for use as a plant
 811 regulator, defoliant, or desiccant; however, the term
 812 "pesticide" does not include any article that:

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

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

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

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

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

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

832 | (52) "Private applicator" means an individual who has
833 | reached the age of majority and is licensed by the department to
834 | use or supervise the use of any restricted-use pesticide for
835 | purposes of producing any agricultural commodity on property
836 | owned or rented by his or her employer, or, if applied without
837 | compensation other than the trading of personal services between
838 | producers of agricultural commodities, on the property of
839 | another person.

840 | (53) "Product" means a unique pesticide and label as
841 | distinguished by its individually assigned United States
842 | Environmental Protection Agency registration number, special
843 | local need registration number, or experimental use permit
844 | number.

845 | (54) "Protect health and the environment" means protection
846 | against any unreasonable adverse effects on people or the
847 | environment.

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

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

856 restricted-use pesticide product that is identified on the
857 license by the United States Environmental Protection Agency
858 registration number, as well as any Florida special local need
859 registration number and any specific identifying information as
860 deemed appropriate for nonfederally registered products exempt
861 under s. 18 of the Federal Insecticide, Fungicide, and
862 Rodenticide Act, provided that the restricted-use pesticide
863 product is used for the purpose of producing agricultural
864 commodities on property owned or rented by the licensee or the
865 licensee's employer, or is applied on the property of another
866 person without compensation other than trading of personal
867 services between producers of agricultural commodities.

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

870 (58) "Restricted-use pesticide" means a pesticide which,
871 when applied in accordance with its directions for use,
872 warnings, and cautions and for uses for which it is registered
873 or for one or more such uses, or in accordance with a widespread
874 and commonly recognized practice, may generally cause, without
875 additional regulatory restrictions, unreasonable adverse effects
876 on the environment, or injury to the applicator or other
877 persons, and which has been classified as a restricted-use
878 pesticide by the department or the administrator of the United
879 States Environmental Protection Agency.

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

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

884 (61) "Special review" is a process for reviewing selected
885 pesticides based upon information that the pesticides have been
886 found to present environmental or health concerns not considered
887 in the registration process or that data submitted in support of
888 registration are inadequate or outdated.

889 (62) "Tolerance" means the deviation from the guaranteed
890 analysis permitted by law.

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

895 (64) "Under the direct supervision of a licensed
896 applicator" means, unless otherwise prescribed by its labeling,
897 a pesticide that must be applied by a competent person acting
898 under the instruction and control of a licensed applicator who
899 is available if and when needed, even though the licensed
900 applicator is not physically present when the pesticide is
901 applied.

902 (65) "Unreasonable adverse effects on the environment"
903 means any unreasonable risk to humans or the environment, taking
904 into account the economic, social, and environmental costs and
905 benefits of the use of any pesticide.

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

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

910 Section 24. Subsection (2) of section 487.025, Florida
911 Statutes, is amended to read:

912 487.025 Misbranding.--

913 (2) A pesticide is misbranded if:

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

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

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

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

924 (e) The label does not bear an ingredient statement on
925 that part of the immediate container, and on the outside
926 container or wrapper, if there is one, through which the
927 ingredient statement on the immediate container cannot be
928 clearly read, of the retail package which is presented or
929 displayed under customary conditions of purchase.

930 (f) Any word, statement, or other information required by
931 or under authority of this part ~~chapter~~ to appear on the
932 labeling is not prominently placed thereon with such
933 conspicuousness, as compared with other words, statements,
934 designs, or graphic matter in the labeling, and in such terms as
935 to render it likely to be read and understood by the ordinary
936 individual under customary conditions of purchase and use.

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

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

941 | (h) In the case of a plant regulator, defoliant, or
 942 | desiccant, when used as directed, it is injurious to living
 943 | humans or other vertebrate animals, or vegetation, to which it
 944 | is applied, or to the person applying such pesticide. However,
 945 | physical or physiological effects on plants or parts thereof
 946 | shall not be deemed to be injury when this is the purpose for
 947 | which the plant regulator, defoliant, or desiccant was applied
 948 | in accordance with the label claims and recommendations.

949 | (i) Any ingredient which is present in amounts which are
 950 | not likely to be effective when used according to directions is
 951 | given undue prominence or conspicuousness, as compared with
 952 | ingredients which are present in effective amounts, in its
 953 | labeling. Such ingredient shall appear only in the ingredient
 954 | statement.

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

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

958 | Section 25. Subsections (2), (4), (5), and (13) of section
 959 | 487.031, Florida Statutes, are amended to read:

960 | 487.031 Prohibited acts.--It is unlawful:

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

966 supervision, or cancellation orders or other existing stock
 967 agreements.

968 (4) To detach, alter, deface, or destroy, in whole or in
 969 part, any label or labeling provided for in this part ~~chapter~~ or
 970 rules promulgated under this part ~~chapter~~, or to add any
 971 substance to, or take any substance from, any pesticide in a
 972 manner that may defeat the purpose of this part ~~chapter~~.

973 (5) For any person to use for his or her own advantage or
 974 to reveal any information relative to formulas of products
 975 acquired by authority of this part ~~chapter~~, other than to: the
 976 department, proper officials, or employees of the state; the
 977 courts of this state in response to a subpoena; physicians,
 978 pharmacists, and other qualified persons, in an emergency, for
 979 use in the preparation of antidotes. The information relative to
 980 formulas of products is confidential and exempt from the
 981 provisions of s. 119.07(1).

982 (13) For any person to:

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

985 (b) Make a pesticide recommendation or application not in
 986 accordance with the label, except as provided in this section,
 987 or not in accordance with recommendations of the United States
 988 Environmental Protection Agency or not in accordance with the
 989 specifications of a special local need registration;

990 (c) Operate faulty or unsafe equipment;

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

- 992 (e) Apply any pesticide directly to, or in any manner
- 993 cause any pesticide to drift onto, any person or area not
- 994 intended to receive the pesticide;
- 995 (f) Fail to disclose to an agricultural crop grower, prior
- 996 to the time pesticides are applied to a crop, full information
- 997 regarding the possible harmful effects to human beings or
- 998 animals and the earliest safe time for workers or animals to
- 999 reenter the treated field;
- 1000 (g) Refuse or, after notice, neglect to comply with the
- 1001 provisions of this part ~~chapter~~, the rules adopted under this
- 1002 part ~~chapter~~, or any lawful order of the department;
- 1003 (h) Refuse or neglect to keep and maintain the records
- 1004 required by this part ~~chapter~~ or to submit reports when and as
- 1005 required;
- 1006 (i) Make false or fraudulent records, invoices, or
- 1007 reports;
- 1008 (j) Use fraud or misrepresentation in making an
- 1009 application for a license or license renewal;
- 1010 (k) Refuse or neglect to comply with any limitations or
- 1011 restrictions on or in a duly issued license;
- 1012 (l) Aid or abet a licensed or unlicensed person to evade
- 1013 the provisions of this part ~~chapter~~, or combine or conspire with
- 1014 a licensed or unlicensed person to evade the provisions of this
- 1015 part ~~chapter~~, or allow a license to be used by an unlicensed
- 1016 person;
- 1017 (m) Make false or misleading statements during or after an
- 1018 inspection concerning any infestation or infection of pests
- 1019 found on land;

1020 (n) Make false or misleading statements, or fail to
 1021 report, pursuant to this part ~~chapter~~, any suspected or known
 1022 damage to property or illness or injury to persons caused by the
 1023 application of pesticides;

1024 (o) Impersonate any state, county, or city inspector or
 1025 official;

1026 (p) Fail to maintain a current liability insurance policy
 1027 or surety bond as provided for in this part ~~chapter~~;

1028 (q) Fail to adequately train, as provided for in this part
 1029 ~~chapter~~, unlicensed applicators or mixer-loaders applying
 1030 restricted-use pesticides under the direct supervision of a
 1031 licensed applicator; or

1032 (r) Fail to provide authorized representatives of the
 1033 department with records required by this part ~~chapter~~ or with
 1034 free access for inspection and sampling of any pesticide, areas
 1035 treated with or impacted by these materials, and equipment used
 1036 in their application.

1037 Section 26. Subsections (2), (3), and (8) of section
 1038 487.041, Florida Statutes, are amended to read:

1039 487.041 Registration.--

1040 (2) For the purpose of defraying expenses of the
 1041 department in connection with carrying out the provisions of
 1042 this part ~~chapter~~, each person shall pay an annual registration
 1043 fee of \$250 for each registered pesticide. The annual
 1044 registration fee for each special local need label and
 1045 experimental use permit shall be \$100. All registrations expire
 1046 on December 31 of each year. Nothing in this section shall be
 1047 construed as applying to distributors or retail dealers selling

1048 pesticides when such pesticides are registered by another
 1049 person.

1050 (3) The department shall adopt rules governing the
 1051 procedures for pesticide registration and for the review of data
 1052 submitted by an applicant for registration of a pesticide. The
 1053 department shall determine whether a pesticide should be
 1054 registered, registered with conditions, or tested under field
 1055 conditions in this state. The department shall determine that
 1056 all requests for pesticide registrations meet the requirements
 1057 of current state and federal law. The department, whenever it
 1058 deems it necessary in the administration of this part ~~chapter~~,
 1059 may require the manufacturer or registrant to submit the
 1060 complete formula, quantities shipped into or manufactured in the
 1061 state for distribution and sale, evidence of the efficacy and
 1062 the safety of any pesticide, and other relevant data. The
 1063 department may review and evaluate a registered pesticide if new
 1064 information is made available which indicates that use of the
 1065 pesticide has caused an unreasonable adverse effect on public
 1066 health or the environment. Such review shall be conducted upon
 1067 the request of the secretary of the Department of Health in the
 1068 event of an unreasonable adverse effect on public health or the
 1069 secretary of the Department of Environmental Protection in the
 1070 event of an unreasonable adverse effect on the environment. Such
 1071 review may result in modifications, revocation, cancellation, or
 1072 suspension of a pesticide registration. The department, for
 1073 reasons of adulteration, misbranding, or other good cause, may
 1074 refuse or revoke the registration of any pesticide, after notice
 1075 to the applicant or registrant giving the reason for the

1076 decision. The applicant may then request a hearing, pursuant to
 1077 chapter 120, on the intention of the department to refuse or
 1078 revoke registration, and, upon his or her failure to do so, the
 1079 refusal or revocation shall become final without further
 1080 procedure. In no event shall registration of a pesticide be
 1081 construed as a defense for the commission of any offense
 1082 prohibited under this part ~~chapter~~.

1083 (8) Nothing in this section affects the authority of the
 1084 department to administer the pesticide registration program
 1085 under this part ~~chapter~~ or the authority of the Commissioner of
 1086 Agriculture to approve the registration of a pesticide.

1087 Section 27. Section 487.0435, Florida Statutes, is amended
 1088 to read:

1089 487.0435 License classification.--The department shall
 1090 issue certified applicator licenses in the following
 1091 classifications: certified public applicator; certified private
 1092 applicator; and certified commercial applicator. In addition,
 1093 separate classifications and subclassifications may be specified
 1094 by the department in rule as deemed necessary to carry out the
 1095 provisions of this part ~~chapter~~. Each classification shall be
 1096 subject to requirements or testing procedures to be set forth by
 1097 rule of the department and shall be restricted to the activities
 1098 within the scope of the respective classification as established
 1099 in statute or by rule. In specifying classifications, the
 1100 department may consider, but is not limited to, the following:

1101 (1) Whether the license sought is for commercial, public,
 1102 or private applicator status.

1103 (2) The method of applying the restricted-use pesticide.

1104 (3) The specific crops upon which restricted-use
 1105 pesticides are applied.

1106 (4) The proximity of populated areas to the land upon
 1107 which restricted-use pesticides are applied.

1108 (5) The acreage under the control of the licensee.

1109 (6) The pounds of technical restricted toxicant applied
 1110 per acre per year by the licensee.

1111 Section 28. Section 487.045, Florida Statutes, is amended
 1112 to read:

1113 487.045 Fees.--

1114 (1) The department shall establish applicable fees by
 1115 rule. The fees shall not exceed \$250 for commercial applicators
 1116 or \$100 for private applicators and public applicators, for
 1117 initial licensing and for each subsequent license renewal. The
 1118 fees shall be determined annually and shall represent department
 1119 costs associated with enforcement of the provisions of this part
 1120 ~~chapter~~.

1121 (2) Fees collected under the provisions of this part
 1122 ~~chapter~~ shall be deposited into the General Inspection Trust
 1123 Fund and shall be used to defray expenses in the administration
 1124 of this part ~~chapter~~.

1125 Section 29. Subsection (2) of section 487.046, Florida
 1126 Statutes, is amended to read:

1127 487.046 Application; licensure.--

1128 (2) If the department finds the applicant qualified in the
 1129 classification for which the applicant has applied, and if the
 1130 applicant applying for a license to engage in aerial application
 1131 of pesticides has met all of the requirements of the Federal

1132 Aviation Agency and the Department of Transportation of this
 1133 state to operate the equipment described in the application and
 1134 has shown proof of liability insurance or posted a surety bond
 1135 in an amount to be set forth by rule of the department, the
 1136 department shall issue a certified applicator's license, limited
 1137 to the classifications for which the applicant is qualified. The
 1138 license shall expire as required by rules promulgated under this
 1139 part ~~chapter~~, unless it has been revoked or suspended by the
 1140 department prior to expiration, for cause as provided in this
 1141 part ~~chapter~~. The license or authorization card issued by the
 1142 department verifying licensure shall be kept on the person of
 1143 the licensee while performing work as a licensed applicator.

1144 Section 30. Section 487.047, Florida Statutes, is amended
 1145 to read:

1146 487.047 Nonresident license; reciprocal agreement;
 1147 authorized purchase.--

1148 (1) The department may waive all or part of the
 1149 examination requirements provided for in this part ~~chapter~~ on a
 1150 reciprocal basis with any other state or agency, or an Indian
 1151 tribe, that has substantially the same or better standards.

1152 (2) Any nonresident applying for a license under this part
 1153 ~~chapter~~ to operate in the state shall file a Designation of
 1154 Registered Agent naming the Secretary of State as the agent of
 1155 the nonresident, upon whom process may be served in the event of
 1156 any suit against the nonresident. The designation shall be
 1157 prepared on a form provided by the department and shall render
 1158 effective the jurisdiction of the courts of this state over the
 1159 nonresident applicant. However, any nonresident who has a duly

1160 appointed registered agent upon whom process may be served as
 1161 provided by law shall not be required to designate the Secretary
 1162 of State as registered agent. The Secretary of State shall be
 1163 allowed the registered-agent fees as provided by law for
 1164 designating registered agents. The department shall be furnished
 1165 with a copy of the designation of the Secretary of State or of a
 1166 registered agent which is certified by the Secretary of State.
 1167 The Secretary of State shall notify the department of any
 1168 service of process it receives as registered agent for persons
 1169 licensed under this part ~~chapter~~.

1170 (3) Restricted-use pesticides may be purchased by any
 1171 person who holds a valid applicator's license or who holds a
 1172 valid purchase authorization card issued by the department or by
 1173 a licensee under chapter 482 or chapter 388. A nonlicensed
 1174 person may apply restricted-use pesticides under the direct
 1175 supervision of a licensed applicator. An applicator's license
 1176 shall be issued by the department on a form supplied by it in
 1177 accordance with the requirements of this part ~~chapter~~.

1178 Section 31. Subsection (1) of section 487.049, Florida
 1179 Statutes, is amended to read:

1180 487.049 Renewal; late fee; recertification.--

1181 (1) The department shall require renewal of a certified
 1182 applicator's license at 4-year intervals from the date of
 1183 issuance. If the application for renewal of any license provided
 1184 for in this part ~~chapter~~ is not filed on time, a late fee shall
 1185 be assessed not to exceed \$50. However, the penalty shall not
 1186 apply if the renewal application is filed within 60 days after
 1187 the renewal date, provided the applicant furnishes an affidavit

1188 certifying that he or she has not engaged in business subsequent
 1189 to the expiration of the license for a period not exceeding 60
 1190 days. A license may be renewed without taking another
 1191 examination unless the department determines that new knowledge
 1192 related to the classification for which the applicant has
 1193 applied makes a new examination necessary; however, the
 1194 department may require the applicant to provide evidence of
 1195 continued competency, as determined by rule. If the license is
 1196 not renewed within 60 days after ~~of~~ the expiration date, then
 1197 the licensee may again be required to take another examination,
 1198 unless there is some unavoidable circumstance which results in
 1199 the delay of the renewal of any license issued under this part
 1200 ~~chapter~~ which was not under the applicant's control.

1201 Section 32. Paragraph (b) of subsection (1) and subsection
 1202 (2) of section 487.051, Florida Statutes, are amended to read:

1203 487.051 Administration; rules; procedure.--

1204 (1) The department may by rule:

1205 (b) Establish procedures for the taking and handling of
 1206 samples and establish tolerances and deficiencies where not
 1207 specifically provided for in this part ~~chapter~~; assess
 1208 penalties; and prohibit the sale or use of pesticides or devices
 1209 shown to be detrimental to human beings, the environment, or
 1210 agriculture or to be otherwise of questionable value.

1211 (2) The department is authorized to adopt by rule the
 1212 primary standards established by the United States Environmental
 1213 Protection Agency with respect to pesticides. If the provisions
 1214 of this part ~~chapter~~ are preempted in part by federal law, those
 1215 provisions not preempted shall apply. This part ~~chapter~~ is

1216 intended as comprehensive and exclusive regulation of pesticides
 1217 in this state. Except as provided in chapters 373, 376, 388,
 1218 403, and 482, or as otherwise provided by law, no agency,
 1219 commission, department, county, municipality, or other political
 1220 subdivision of the state may adopt laws, regulations, rules, or
 1221 policies pertaining to pesticides, including their registration,
 1222 packaging, labeling, distribution, sale, or use, except that
 1223 local jurisdictions may adopt or enforce an ordinance pertaining
 1224 to pesticides if that ordinance is in the area of occupational
 1225 license taxes, building and zoning regulations, disposal or
 1226 spillage of pesticides within a water well zone, or pesticide
 1227 safety regulations relating to containment at the storage site.

1228 Section 33. Subsection (4) of section 487.0615, Florida
 1229 Statutes, is amended to read:

1230 487.0615 Pesticide Review Council.--

1231 (4) The council is defined as a "substantially interested
 1232 person" and has standing under chapter 120 in any proceeding
 1233 conducted by the department relating to the registration of a
 1234 pesticide under this part ~~chapter~~. The standing of the council
 1235 shall in no way prevent individual members of the council from
 1236 exercising standing in these matters.

1237 Section 34. Section 487.071, Florida Statutes, is amended
 1238 to read:

1239 487.071 Enforcement, inspection, sampling, and analysis.--

1240 (1) The department is authorized to enter upon any public
 1241 or private premises or carrier where pesticides are known or
 1242 thought to be distributed, sold, offered for sale, held, stored,
 1243 or applied, during regular business hours in the performance of

1244 its duties relating to pesticides and records pertaining to
1245 pesticides. No person shall deny or refuse access to the
1246 department when it seeks to enter upon any public or private
1247 premises or carrier during business hours in performance of its
1248 duties under this part ~~chapter~~.

1249 (2) The department is authorized and directed to sample,
1250 test, inspect, and make analyses of pesticides sold, offered for
1251 sale, distributed, or used within this state, at a time and
1252 place and to such an extent as it may deem necessary, to
1253 determine whether the pesticides or persons exercising control
1254 over the pesticides are in compliance with the provisions of
1255 this part ~~chapter~~, the rules adopted under this part ~~chapter~~,
1256 and the provisions of the pesticide label or labeling.

1257 (3) The official analysis shall be made from the official
1258 sample. A sealed and identified sample, herein called "official
1259 check sample" shall be kept until the analysis on the official
1260 sample is completed. However, the registrant may obtain upon
1261 request a portion of the official sample. Upon completion of the
1262 analysis of the official sample, a true copy of the certificate
1263 of analysis shall be mailed to the registrant of the pesticide
1264 from whom the official sample was taken and also to the dealer
1265 or agent, if any, and consumer, if known. If the official
1266 analysis conforms with the provisions of this part ~~chapter~~, the
1267 official check sample may be destroyed. If the official analysis
1268 does not conform with the provisions of this part ~~chapter~~, the
1269 rules adopted under this part ~~chapter~~, and the provisions of the
1270 pesticide label or labeling, the official check sample shall be
1271 retained for a period of 90 days from the date of the

1272 certificate of analysis of the official sample. If within that
1273 time the registrant of the pesticide from whom the official
1274 sample was taken makes demand for analysis by a referee chemist,
1275 a portion of the official check sample sufficient for analysis
1276 shall be sent to a referee chemist who is mutually acceptable to
1277 the department and the registrant for analysis at the expense of
1278 the registrant. Upon completion of the analysis, the referee
1279 chemist shall forward to the department and to the registrant a
1280 certificate of analysis bearing a proper identification mark or
1281 number; and such certificate of analysis shall be verified by an
1282 affidavit of the person or laboratory making the analysis. If
1283 the certificate of analysis checks within 3 percent of the
1284 department's analysis on each active ingredient for which
1285 analysis was made, the mean average of the two analyses shall be
1286 accepted as final and binding on all concerned. However, if the
1287 referee's certificate of analysis shows a variation of greater
1288 than 3 percent from the department's analysis in any one or more
1289 of the active ingredients for which an analysis was made, upon
1290 demand of either the department or the registrant from whom the
1291 official sample was taken, a portion of the official check
1292 sample sufficient for analysis shall be submitted to a second
1293 referee chemist who is mutually acceptable to the department and
1294 the registrant, at the expense of the party or parties
1295 requesting the referee analysis. Upon completion of the
1296 analysis, the second referee chemist shall make a certificate
1297 and report as provided in this subsection for the first referee
1298 chemist. The mean average of the two analyses nearest in
1299 conformity shall be accepted as final and binding on all

1300 concerned. If no demand is made for an analysis by a second
1301 referee chemist, the department's certificate of analysis shall
1302 be accepted as final and binding on all concerned.

1303 (4) If a pesticide or device fails to comply with the
1304 provisions of this part ~~chapter~~ with reference to the ingredient
1305 statement reflecting the composition of the product, as required
1306 on the registration and labeling, and the department
1307 contemplates possible criminal proceedings against the person
1308 responsible because of this violation, the department shall,
1309 after due notice, accord the person an informal hearing or an
1310 opportunity to present evidence and opinions, either orally or
1311 in writing, with regard to such contemplated proceedings. If in
1312 the opinion of the department the facts warrant, the department
1313 may refer the facts to the state attorney for the county in
1314 which the violation occurred, with a copy of the results of the
1315 analysis or the examination of such article; provided that
1316 nothing in this part ~~chapter~~ shall be construed as requiring the
1317 department to report for prosecution minor violations whenever
1318 it believes that the public interest will be subserved by a
1319 suitable notice of warning in writing.

1320 (5) It shall be the duty of each state attorney to whom
1321 any such violation is reported to cause appropriate proceedings
1322 to be instituted and prosecuted in a court of competent
1323 jurisdiction without delay.

1324 (6) The department shall, by publication in such manner as
1325 it may prescribe, give notice of all judgments entered in
1326 actions instituted under the authority of this part ~~chapter~~.

1327 (7)(a) The department may analyze pesticide samples upon
 1328 request in a manner consistent with this part ~~chapter~~.

1329 (b) The department shall establish by rule a fee schedule
 1330 for pesticide samples analyzed upon request. The fees shall be
 1331 sufficient to cover the costs to the department for taking the
 1332 samples and performing the analysis. However, no fee shall
 1333 exceed \$400 per test.

1334 (c) The department shall keep separate records with
 1335 respect to requested pesticide analyses, including the pesticide
 1336 analyzed, tests performed, fees collected, the name and address
 1337 of the person who requested the analysis, and the name and
 1338 address of the registrant.

1339 (d) All fees collected pursuant to this subsection shall
 1340 be deposited into the General Inspection Trust Fund and shall be
 1341 used by the department to implement this subsection.

1342 (e) In addition to any other penalty provided by this part
 1343 ~~chapter~~, the registrant of any pesticide found to be
 1344 adulterated, misbranded, or otherwise deficient shall reimburse
 1345 the person requesting the pesticide analysis under this
 1346 subsection for all fees assessed by and paid to the department.

1347 Section 35. Subsections (2), (3), and (4) of section
 1348 487.081, Florida Statutes, are amended to read:

1349 487.081 Exemptions.--

1350 (2) No article shall be deemed in violation of this part
 1351 ~~chapter~~ when intended solely for export to a foreign country and
 1352 when prepared or packed according to the specifications or
 1353 directions of the purchaser.

1354 (3) Notwithstanding any other provision of this part
 1355 ~~chapter~~, registration required under this part ~~chapter~~ is not
 1356 required in the case of a pesticide stored or shipped from one
 1357 manufacturing plant within this state to another manufacturing
 1358 plant within this state operated by the same person.

1359 (4) Nothing in this part ~~chapter~~ shall be construed to
 1360 apply to persons duly licensed or certified under chapter 388 or
 1361 chapter 482 performing any pest control or other operation for
 1362 which they are licensed or certified under those chapters.

1363 Section 36. Subsection (2) of section 487.091, Florida
 1364 Statutes, is amended to read:

1365 487.091 Tolerances, deficiencies, and penalties.--

1366 (2) If a pesticide is found by analysis to be deficient in
 1367 an active ingredient beyond the tolerance as provided in this
 1368 part ~~chapter~~, the registrant is subject to a penalty for the
 1369 deficiency, not to exceed \$10,000 per violation. However, no
 1370 penalty shall be assessed when the official sample was taken
 1371 from a pesticide that was in the possession of a consumer for
 1372 more than 45 days from the date of purchase by that consumer, or
 1373 when the product label specifies that the product should be used
 1374 by an expiration date that has passed. Procedures for assessing
 1375 penalties shall be established by rule, based on the degree of
 1376 the deficiency. Penalties assessed shall be paid to the consumer
 1377 or, in the absence of a known consumer, the department. If the
 1378 penalty is not paid within the prescribed period of time as
 1379 established by rule, the department may deny, suspend, or revoke
 1380 the registration of any pesticide.

1381 Section 37. Section 487.101, Florida Statutes, is amended
 1382 to read:

1383 487.101 Stop-sale, stop-use, removal, or hold orders.--

1384 (1) When a pesticide or device is being offered or exposed
 1385 for sale, used, or held in violation of any of the provisions of
 1386 this part ~~chapter~~, the department may issue and enforce a stop-
 1387 sale, stop-use, removal, or hold order, in writing, to the owner
 1388 or custodian of the pesticide or device, ordering that the
 1389 pesticide or device be held at a designated place until the part
 1390 ~~chapter~~ has been complied with and the pesticide or device is
 1391 released, in writing, by the department or the violation has
 1392 been disposed of by court order.

1393 (2) The written notice is warning to all persons,
 1394 including, but not limited to, the owner or custodian of the
 1395 pesticide or the owner's or custodian's agents or employees, to
 1396 scrupulously refrain from moving, bothering, altering, or
 1397 interfering with the pesticide or device or from altering,
 1398 defacing, or in any way interfering with the written notice or
 1399 permitting the same to be done. The willful violation of these
 1400 provisions is a misdemeanor, subjecting the violator to the
 1401 penalty provisions of this part ~~chapter~~.

1402 (3) The department shall release the pesticide or device
 1403 under a stop-sale, stop-use, removal, or hold order when the
 1404 owner or custodian complies with the provisions of this part
 1405 ~~chapter~~.

1406 (4) The owner or custodian, with authorization and
 1407 supervision of the department, may relabel the pesticide or
 1408 device so that the label will conform to the product, or

1409 transfer and return the product to the manufacturer or supplier
 1410 for the purpose of bringing the product in compliance with the
 1411 provisions of this part ~~chapter~~.

1412 Section 38. Subsection (1) of section 487.111, Florida
 1413 Statutes, is amended to read:

1414 487.111 Seizure, condemnation, and sale.--

1415 (1) Any lot of pesticide or device not in compliance with
 1416 the provisions of this part ~~chapter~~ is subject to seizure on
 1417 complaint of the department to the circuit court in the county
 1418 in which the pesticide or device is located. In the event the
 1419 court finds the pesticide or device in violation of this part
 1420 ~~chapter~~ and orders it condemned, it shall be disposed of as the
 1421 court may direct; provided that in no instance shall the
 1422 disposition of the pesticide or device be ordered by the court
 1423 without first giving the owner or custodian an opportunity to
 1424 apply to the court for release of the pesticide or device or for
 1425 permission to process or relabel it to bring it into compliance
 1426 with this part ~~chapter~~.

1427 Section 39. Section 487.13, Florida Statutes, is amended
 1428 to read:

1429 487.13 Cooperation.--The department is authorized and
 1430 empowered to cooperate with and enter into agreements with any
 1431 other agency of this state, the United States Department of
 1432 Agriculture, the United States Environmental Protection Agency,
 1433 and any other state or federal agency for the purpose of
 1434 carrying out the provisions of this part ~~chapter~~ and securing
 1435 uniformity of regulations.

1436 Section 40. Section 487.156, Florida Statutes, is amended
 1437 to read:

1438 487.156 Governmental agencies.--All governmental agencies
 1439 shall be subject to the provisions of this part ~~chapter~~ and
 1440 rules adopted under this part ~~chapter~~. Public applicators using
 1441 or supervising the use of restricted-use pesticides shall be
 1442 subject to examination as provided in s. 487.044.

1443 Section 41. Subsection (1) of section 487.159, Florida
 1444 Statutes, is amended to read:

1445 487.159 Damage or injury to property, animal, or person;
 1446 mandatory report of damage or injury; time for filing; failure
 1447 to file.--

1448 (1) The person claiming damage or injury to property,
 1449 animal, or human beings from application of a pesticide shall
 1450 file with the department a written statement claiming damages,
 1451 on a form prescribed by the department, within 48 hours after
 1452 the damage or injury becomes apparent. The statement shall
 1453 contain, but shall not be limited to, the name of the person
 1454 responsible for the application of the pesticide, the name of
 1455 the owner or lessee of the land on which the crop is grown and
 1456 for which the damages are claimed, and the date on which it is
 1457 alleged that the damages occurred. The department shall
 1458 investigate the alleged damages and notify all concerned parties
 1459 of its findings. If the findings reveal a violation of the
 1460 provisions of this part ~~chapter~~, the department shall determine
 1461 an appropriate penalty, as provided in this part ~~chapter~~. The
 1462 filing of a statement or the failure to file such a statement
 1463 need not be alleged in any complaint which might be filed in a

1464 court of law, and the failure to file the statement shall not be
 1465 considered any bar to the maintenance of any criminal or civil
 1466 action.

1467 Section 42. Section 487.161, Florida Statutes, is amended
 1468 to read:

1469 487.161 Exemptions, nonagricultural pest control and
 1470 research.--

1471 (1) Any person duly licensed or certified under chapter
 1472 482, or under the supervision of chapter 388, is exempted from
 1473 the licensing provisions of this part ~~chapter~~.

1474 (2) The use of the antibiotic oxytetracycline
 1475 hydrochloride for the purpose of controlling lethal yellowing is
 1476 exempted from the licensing provisions of this part ~~chapter~~.

1477 (3) The personnel of governmental, university, or
 1478 industrial research agencies are exempted from the provisions of
 1479 this part ~~chapter~~ when doing applied research within a
 1480 laboratory, but shall comply with all the provisions of this
 1481 part ~~chapter~~ when applying restricted-use pesticides to
 1482 experimental or demonstration plots.

1483 Section 43. Section 487.163, Florida Statutes, is amended
 1484 to read:

1485 487.163 Information; interagency cooperation.--

1486 (1) The department may, in cooperation with the University
 1487 of Florida or other agencies of government, publish information
 1488 and conduct short courses of instruction in the safe use and
 1489 application of pesticides for the purpose of carrying out the
 1490 provisions of this part ~~chapter~~.

1491 (2) The department may cooperate or enter into formal
 1492 agreements with any other agency or educational institution of
 1493 this state or its subdivisions or with any agency of any other
 1494 state or of the Federal Government for the purpose of carrying
 1495 out the provisions of this part ~~chapter~~ and of securing
 1496 uniformity of regulations.

1497 Section 44. Subsections (1), (2), and (3) of section
 1498 487.171, Florida Statutes, are amended to read:

1499 487.171 Classification of antifouling paint containing
 1500 organotin compounds as restricted-use pesticides; prohibition of
 1501 distribution and sale.--

1502 (1) The department shall classify antifouling paints
 1503 containing organotin compounds having an acceptable release rate
 1504 as restricted-use pesticides subject to the requirements of this
 1505 part ~~chapter~~. Antifouling paints containing organotin having
 1506 acceptable release rates and sold in spray cans of 16 ounces
 1507 avoirdupois weight or less for outboard motor or lower unit use
 1508 are exempt from the restricted-use pesticide classification
 1509 requirement.

1510 (2) The department shall initiate action under chapter
 1511 120, to deny or cancel the registration of antifouling paints
 1512 containing organotin compounds which do not have an acceptable
 1513 release rate or do not meet other criteria established by the
 1514 department in accordance with this part ~~chapter~~.

1515 (3) Distribution, sale, and use of antifouling paints
 1516 containing organotin compounds with acceptable release rates
 1517 shall be limited to dealers and applicators licensed by the
 1518 department in accordance with this part ~~chapter~~, to distribute,

1519 | sell, or use restricted-use pesticides. Such paint may be
 1520 | applied only by licensed applicators and may be applied only to
 1521 | vessels which exceed 25 meters in length or which have aluminum
 1522 | hulls.

1523 | Section 45. Section 487.175, Florida Statutes, is amended
 1524 | to read:

1525 | 487.175 Penalties; administrative fine; injunction.--

1526 | (1) In addition to any other penalty provided in this part
 1527 | ~~chapter~~, when the department finds any person, applicant, or
 1528 | licensee has violated any provision of this part ~~chapter~~ or rule
 1529 | adopted under this part ~~chapter~~, it may enter an order imposing
 1530 | any one or more of the following penalties:

1531 | (a) Denial of an application for licensure.

1532 | (b) Revocation or suspension of a license.

1533 | (c) Issuance of a warning letter.

1534 | (d) Placement of the licensee on probation for a specified
 1535 | period of time and subject to conditions the department may
 1536 | specify by rule, including requiring the licensee to attend
 1537 | continuing education courses, to demonstrate competency through
 1538 | a written or practical examination, or to work under the direct
 1539 | supervision of another licensee.

1540 | (e) Imposition of an administrative fine not to exceed
 1541 | \$10,000 for each violation. When imposing any fine under this
 1542 | paragraph, the department shall consider the degree and extent
 1543 | of harm caused by the violation, the cost of rectifying the
 1544 | damage, the amount of money the violator benefited from by
 1545 | noncompliance, whether the violation was committed willfully,
 1546 | and the compliance record of the violator.

1547 (2) Any person who violates any provision of this part
 1548 ~~chapter~~ or rules adopted pursuant thereto commits a misdemeanor
 1549 of the second degree and upon conviction is punishable as
 1550 provided in s. ~~ss.~~ 775.082 or s. ~~and~~ 775.083. For a subsequent
 1551 violation, such person commits a misdemeanor of the first degree
 1552 and upon conviction is punishable as provided in s. ~~ss.~~ 775.082
 1553 or s. ~~and~~ 775.083.

1554 (3) In addition to the remedies provided in this part
 1555 ~~chapter~~ and notwithstanding the existence of any adequate remedy
 1556 at law, the department may bring an action to enjoin the
 1557 violation or threatened violation of any provision of this part
 1558 ~~chapter~~, or rule adopted under this part ~~chapter~~, in the circuit
 1559 court of the county in which the violation occurred or is about
 1560 to occur. Upon the department's presentation of competent and
 1561 substantial evidence to the court of the violation or threatened
 1562 violation, the court shall immediately issue the temporary or
 1563 permanent injunction sought by the department. The injunction
 1564 shall be issued without bond. A single act in violation of any
 1565 provision of this part ~~chapter~~ shall be sufficient to authorize
 1566 the issuance of an injunction.

1567 Section 46. Subsection (1) of section 482.242, Florida
 1568 Statutes, is amended to read:

1569 482.242 Preemption.--

1570 (1) This chapter is intended as comprehensive and
 1571 exclusive regulation of pest control in this state. The
 1572 provisions of this chapter preempt to the state all regulation
 1573 of the activities and operations of pest control services,
 1574 including the pesticides used pursuant to labeling and

1575 registration approved under part I of chapter 487. No local
 1576 government or political subdivision of the state may enact or
 1577 enforce an ordinance that regulates pest control, except that
 1578 the preemption in this section does not prohibit a local
 1579 government or political subdivision from enacting an ordinance
 1580 regarding any of the following:

1581 (a) Local occupational licenses adopted pursuant to
 1582 chapter 205.

1583 (b) Land development regulations adopted pursuant to
 1584 chapter 163 which include regulation of any aspect of
 1585 development, including a subdivision, building construction,
 1586 sign regulation or any other regulation concerning the
 1587 development of land, or landscaping or tree protection
 1588 ordinances which do not include pesticide application
 1589 restrictions.

1590 (c) Regulations that:

1591 1. Require, for multicomplex dwellings in excess of 10
 1592 units, annual termite inspections for termite activity or
 1593 damage, including Formosan termites, which must be performed by
 1594 a person licensed under this chapter.

1595 2. Require pest control treatments of structures that have
 1596 termite activity or damage which must be performed by a person
 1597 licensed under this chapter.

1598 3. Require property owners or other persons to obtain
 1599 inspections or pest control treatments performed by a person
 1600 licensed under this chapter.

1601

1602 An ordinance by a local government or political subdivision
 1603 which requires an annual inspection or pest control treatment
 1604 must conform to current law.

1605 (d) Protection of wellhead protection areas and high
 1606 recharge areas.

1607 (e) Hazardous materials reporting as set forth in part II
 1608 of chapter 252, storage, and containment including as relating
 1609 to stormwater management.

1610 (f) Hazardous material unlawful discharge and disposal.

1611 (g) Hazardous materials remediation.

1612 Section 47. Section 487.2011, Florida Statutes, is created
 1613 to read:

1614 487.2011 Popular name; administration.--This part may be
 1615 known by the popular name the "Florida Agricultural Worker
 1616 Safety Act" and shall be administered by the Department of
 1617 Agriculture and Consumer Services.

1618 Section 48. Section 487.2021, Florida Statutes, is created
 1619 to read:

1620 487.2021 Legislative intent.--It is the intent of the
 1621 Legislature to ensure that agricultural workers employed in the
 1622 state receive protection from agricultural pesticides. The
 1623 Legislature intends to ensure that agricultural workers be given
 1624 information concerning agricultural pesticides.

1625 Section 49. Section 487.2031, Florida Statutes, is created
 1626 to read:

1627 487.2031 Definitions.--For the purposes of this part, the
 1628 term:

1629 (1) "Agricultural employer" means any person who hires or
 1630 contracts for the services of workers to perform activities
 1631 related to the production of agricultural plants or any person
 1632 who is an owner of, or responsible for, the management or
 1633 condition of an agricultural establishment that uses such
 1634 workers.

1635 (2) "Agricultural establishment" means any farm, forest,
 1636 nursery, or greenhouse.

1637 (3) "Agricultural plant" means any plant grown or
 1638 maintained for commercial or research purposes and includes, but
 1639 is not limited to, food, feed, fiber plants, trees, turfgrass,
 1640 flowers, shrubs, ornamentals, and seedlings.

1641 (4) "Department" means the Department of Agriculture and
 1642 Consumer Services.

1643 (5) "Designated representative" means any organization or
 1644 person to whom a worker gives written authorization to exercise
 1645 the right to request the agricultural pesticide information
 1646 pursuant to this part.

1647 (6) "Fact sheet" means an agricultural pesticide fact
 1648 sheet approved by the state or federal government that provides
 1649 information about the impacts of the use of an agricultural
 1650 pesticide.

1651 (7) "Material safety data sheet" means written or printed
 1652 material concerning an agricultural pesticide that sets forth
 1653 the following information:

1654 (a) The chemical name and the common name of the
 1655 agricultural pesticide.

1656 (b) The hazards or other risks in the use of the
 1657 agricultural pesticide, including:
 1658 1. The potential for fire, explosions, corrosivity, and
 1659 reactivity.
 1660 2. The known acute health effects and chronic health
 1661 effects of exposure to the agricultural pesticide, including
 1662 those medical conditions that are generally recognized as being
 1663 aggravated by exposure to the agricultural pesticide.
 1664 3. The primary routes of entry and symptoms of
 1665 overexposure.
 1666 (c) The proper handling practices, necessary personal
 1667 protective equipment, and other proper or necessary safety
 1668 precautions in circumstances that involve the use of or exposure
 1669 to the agricultural pesticide, including appropriate emergency
 1670 treatment in case of overexposure.
 1671 (d) The emergency procedures for spills, fire, disposal,
 1672 and first aid.
 1673 (e) A description of the known specific potential health
 1674 risks posed by the agricultural pesticide, which is written in
 1675 lay terms and is intended to alert any person who reads the
 1676 information.
 1677 (f) The year and month, if available, that the information
 1678 was compiled and the name, address, and emergency telephone
 1679 number of the manufacturer responsible for preparing the
 1680 information.
 1681 (8) "Retaliatory action" means an action, such as
 1682 dismissal, demotion, harassment, blacklisting with other
 1683 employers, reducing pay or work hours, or taking away company

1684 housing, that is taken by any agricultural employer against a
 1685 worker who exercises any right under the provisions of the
 1686 United States Environmental Protection Agency Worker Protection
 1687 Standard, 40 C.F.R. s. 1707(b), or this part.

1688 (9) "Trainer" means any person who is qualified to train
 1689 workers under the pesticide safety training requirements of the
 1690 United States Environmental Protection Agency Worker Protection
 1691 Standard, 40 C.F.R. s. 170.130.

1692 (10) "Worker" means any person, including a farmworker or
 1693 a self-employed person, who receives any type of compensation
 1694 for employment that involves tasks relating to the production of
 1695 agricultural plants on an agricultural establishment. The term
 1696 "worker" does not include any person employed by a commercial
 1697 pesticide handling establishment to perform tasks as a crop
 1698 advisor.

1699 Section 50. Section 487.2041, Florida Statutes, is created
 1700 to read:

1701 487.2041 Enforcement of federal worker protection
 1702 regulations.--The department shall, to the extent that resources
 1703 are available, continue to operate under the United States
 1704 Environmental Protection Agency regulations regarding the
 1705 Labeling Requirement for Pesticides and Devices, 40 C.F.R. part
 1706 156, and the Worker Protection Standard, 40 C.F.R. part 170,
 1707 which the department adopted by rule during the 1995-1996 fiscal
 1708 year and published in the Florida Administrative Code. Any
 1709 provision of this part not preempted by federal law shall
 1710 continue to apply.

1711 Section 51. Section 487.2051, Florida Statutes, is created
 1712 to read:

1713 487.2051 Availability of agricultural pesticide
 1714 information to workers and medical personnel.--

1715 (1) An agricultural employer shall make available
 1716 agricultural pesticide information concerning any agricultural
 1717 pesticide to any worker:

1718 (a) Who enters an agricultural-pesticide-treated area on
 1719 an agricultural establishment where:

1720 1. An agricultural pesticide has been applied within 30
 1721 days of that entry; or

1722 2. A restricted-entry interval has been in effect; or

1723 (b) Who may be exposed to the agricultural pesticide
 1724 during normal conditions of use or in a foreseeable emergency.

1725 (2) The agricultural pesticide information provided
 1726 pursuant to subsection (1) must be in the form of a fact sheet
 1727 or a material safety data sheet. The agricultural employer shall
 1728 provide a written copy of the information provided pursuant to
 1729 subsection (1) within 2 working days after a request for the
 1730 information by a worker or a designated representative. In the
 1731 case of a pesticide-related medical emergency, the agricultural
 1732 employer shall provide a written copy of the information
 1733 promptly upon the request of the worker, the designated
 1734 representative, or medical personnel treating the worker.

1735 (3) Upon the initial purchase of a product and with the
 1736 first purchase after the material safety data sheet is updated,
 1737 the distributor, manufacturer, or importer of agricultural
 1738 pesticides shall obtain or develop and provide each direct

1739 purchaser of an agricultural pesticide with a material safety
 1740 data sheet. If the material safety data sheet or fact sheet for
 1741 the agricultural pesticide is not available when the
 1742 agricultural pesticide is purchased, the agricultural employer
 1743 shall take appropriate and timely steps to obtain the material
 1744 safety data sheet or fact sheet from the distributor, the
 1745 manufacturer, the department, a federal agency, or another
 1746 distribution source.

1747 (4) The department shall produce and make available to a
 1748 trainer a one-page general agricultural pesticide safety sheet.
 1749 The safety sheet must be in a language understandable to the
 1750 worker and must include, but need not be limited to, illustrated
 1751 instructions on preventing agricultural pesticide exposure and
 1752 toll-free telephone numbers to the Florida Poison Control
 1753 Centers. The trainer shall provide the safety sheet to the
 1754 worker pursuant to the United States Environmental Protection
 1755 Agency Worker Protection Standard, 40 C.F.R. s. 170.130.

1756 Section 52. Section 487.2061, Florida Statutes, is created
 1757 to read:

1758 487.2061 Prohibited acts.--Any person covered by this part
 1759 may not:

1760 (1) Fail to provide agricultural pesticide information as
 1761 required in this part; or

1762 (2) Take retaliatory action.

1763 Section 53. Section 487.2071, Florida Statutes, is created
 1764 to read:

1765 487.2071 Penalties against violators; worker relief;
 1766 monitoring complaints of retaliation.--

1767 (1) Penalties set forth in this part shall be applied to
 1768 any person who violates this part. A persons who violates this
 1769 part is subject to federal penalties as provided in the United
 1770 States Environmental Protection Agency Worker Protection
 1771 Standard, 40 C.F.R. s. 170.9(b).

1772 (2) A worker who has been subject to retaliatory action
 1773 and seeks relief under this section may file a complaint with
 1774 the department.

1775 (3) In any action brought pursuant to this section that
 1776 involves retaliatory action, if the retaliatory action is
 1777 predicated on the disclosure by a worker of an illegal action,
 1778 policy, or practice of any person covered by this part to an
 1779 appropriate governmental agency, the worker may not be required
 1780 to show that the disclosure was under oath or in writing or that
 1781 the worker notified the employer in writing of the illegal
 1782 action, policy, or practice.

1783 (4) The department shall monitor all complaints of
 1784 retaliation that it receives and report its findings to the
 1785 President of the Senate and the Speaker of the House of
 1786 Representatives on or before October 1, 2008. The report shall
 1787 include the number of such complaints received, the
 1788 circumstances surrounding the complaints, and the actions taken
 1789 concerning the complaints.

1790 Section 54. Paragraph (x) of subsection (1) of section
 1791 500.03, Florida Statutes, is amended to read:

1792 500.03 Definitions; construction; applicability.--

1793 (1) For the purpose of this chapter, the term:

1794 (x) "Pesticide chemical" means any substance which, alone,
 1795 in chemical combination, or in formulation with one or more
 1796 other substances is a "pesticide" within the meaning of the
 1797 Florida Pesticide Law, part I of chapter 487, and which is used
 1798 in the production, storage, or transportation of raw
 1799 agricultural commodities.

1800 Section 55. Subsections (1) and (6) of section 570.44,
 1801 Florida Statutes, are amended to read:

1802 570.44 Division of Agricultural Environmental Services;
 1803 powers and duties.--The duties of the Division of Agricultural
 1804 Environmental Services include, but are not limited to:

1805 (1) Inspecting and drawing samples of: commercial feeds
 1806 offered for sale in this state and enforcing those provisions of
 1807 chapter 580 authorized by the department; seeds offered for sale
 1808 in this state and enforcing those provisions of chapter 578
 1809 authorized by the department; certified seed grown in this
 1810 state; fertilizers offered for sale in this state and enforcing
 1811 those provisions of chapter 576 authorized by the department;
 1812 and pesticides offered for sale in this state, and soil and
 1813 water in this state for the presence of pesticides, and
 1814 enforcing those provisions of part I of chapter 487 authorized
 1815 by the department.

1816 (6) Analyzing samples of pesticide formulations offered
 1817 for sale in this state and tank mix, soil, water, and other
 1818 environmental samples related to pesticide use investigations,
 1819 as required under part I of chapter 487.

1820 Section 56. Subsection (7) of section 440.16, Florida
 1821 Statutes, is amended to read:

1822 440.16 Compensation for death.--
 1823 ~~(7) Compensation under this chapter to aliens not~~
 1824 ~~residents (or about to become nonresidents) of the United States~~
 1825 ~~or Canada shall be the same in amount as provided for residents,~~
 1826 ~~except that dependents in any foreign country shall be limited~~
 1827 ~~to surviving spouse and child or children, or if there be no~~
 1828 ~~surviving spouse or child or children, to surviving father or~~
 1829 ~~mother whom the employee has supported, either wholly or in~~
 1830 ~~part, for the period of 1 year prior to the date of the injury,~~
 1831 ~~and except that the judge of compensation claims may, at the~~
 1832 ~~option of the judge of compensation claims, or upon the~~
 1833 ~~application of the insurance carrier, commute all future~~
 1834 ~~installments of compensation to be paid to such aliens by paying~~
 1835 ~~or causing to be paid to them one-half of the commuted amount of~~
 1836 ~~such future installments of compensation as determined by the~~
 1837 ~~judge of compensation claims, and provided further that~~
 1838 ~~compensation to dependents referred to in this subsection shall~~
 1839 ~~in no case exceed \$75,000.~~

1840 Section 57. The Division of Statutory Revision is
 1841 requested to designate sections 487.011-487.175, Florida
 1842 Statutes, as part I of chapter 487, entitled the "Florida
 1843 Pesticide Law," and sections 487.2011-487.2071, Florida
 1844 Statutes, as created by this act, as part II of that chapter,
 1845 entitled the "Florida Agricultural Worker Safety Act."

1846 Section 58. For the 2004-2005 fiscal year, the sum of
 1847 \$300,000 is appropriated from the General Revenue Fund, and four
 1848 positions are authorized, to the Department of Agriculture and
 1849 Consumer Services for the purpose of conducting regulatory,

1850 | training, and outreach activities related to migrant labor.

1851 | Section 59. This act shall take effect July 1, 2004.