

ENROLLED
HB 1307, Engrossed 2

2004 Legislature

A bill to be entitled

An act relating to agricultural and migrant labor;
providing a popular name; amending s. 381.008, F.S.;
revising a definition; amending s. 381.0086, F.S.;
requiring the Department of Health to adopt rules relating
to residential migrant housing; providing guidelines for
the filing of interstate clearance orders; amending s.
381.0087, F.S.; revising a provision relating to who may
issue certain citations; requiring the department to
provide notice of suspected violations; amending s.
403.088, F.S.; clarifying a provision relating to water
pollution operation permits; amending s. 450.191, F.S.;
authorizing and directing the Executive Office of the
Governor to advise and consult on certain issues relating
to migrant and seasonal workers; directing the office to
coordinate enforcement of certain provisions with the
Department of Business and Professional Regulation;
including farm labor contractors in the enforcement of
certain laws; authorizing and directing the office to
cooperate with the Agency for Workforce Innovation in the
recruitment and referral of migrant workers and certain
other laborers; amending s. 450.201, F.S.; renaming the
Legislative Commission on Migrant Labor as the Legislative
Commission on Migrant and Seasonal Labor; providing a
deadline for appointments to the commission; providing a
deadline for the commission's first meeting; amending s.
450.231, F.S.; providing a deadline for certain reports;
amending s. 450.27, F.S.; providing a popular name;

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amending s. 450.271, F.S.; authorizing the department to enter into certain agreements with the Secretary of Labor of the United States; amending s. 450.28, F.S.; providing definitions; amending s. 450.30, F.S.; revising requirements for retaking examinations for renewal of certificates of registration; requiring fees for certain programs to be deposited in the Professional Regulation Trust Fund; amending s. 450.31, F.S.; providing criteria for issuance or renewal of certificates of registration; authorizing payment for certificates of registration by cashier's check; increasing the application fee for such registration; requiring fees to be deposited in the Professional Regulation Trust Fund; providing criteria for revocation, suspension, or refusal to issue or renew certificates of registration; conforming a provision; providing criteria for permanent revocation or refusal to issue or renew certificates of registration; authorizing the department to inspect certain documents upon receipt and acceptance of a certificate of registration; creating s. 450.321, F.S.; creating the best practices incentive program for farm labor contractors; requiring farm labor contractors to meet certain requirements; restricting the transfer or unauthorized use of best practices designations; authorizing the department to enter into certain partnership agreements; authorizing the department to revoke certain designations; providing that certain designations are not department endorsements; limiting certain civil liability of the department; requiring the

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

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

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

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

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

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

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

(a) Housing furnished as an incident of employment.

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

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

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

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

381.0086 Rules; variances; penalties.--

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

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

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

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

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

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

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

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

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

381.0087 Enforcement; citations.--

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

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

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

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

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

403.088 Water pollution operation permits; conditions.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

450.28 Definitions.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) A crime under state or federal law:

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

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

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

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

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

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

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

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

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

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

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

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practices farm labor contractor designation when soliciting business.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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(2) "Active ingredient" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(48) "Pest" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(59) "Sell or sale" includes exchanges.

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

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

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

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

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

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

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

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

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

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487.025 Misbranding.--

(2) A pesticide is misbranded if:

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

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

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

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

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

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

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

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

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

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

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

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

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

487.031 Prohibited acts.--It is unlawful:

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

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supervision, or cancellation orders or other existing stock agreements.

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

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

(13) For any person to:

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

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

(c) Operate faulty or unsafe equipment;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

487.041 Registration.--

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

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pesticides when such pesticides are registered by another person.

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

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

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

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

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

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

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

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

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

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

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

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

487.045 Fees.--

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

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

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

487.046 Application; licensure.--

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

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

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

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

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

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

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

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

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

487.049 Renewal; late fee; recertification.--

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

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

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

487.051 Administration; rules; procedure.--

(1) The department may by rule:

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

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

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

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

487.0615 Pesticide Review Council.--

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

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

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

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

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

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

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

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certificate of analysis of the official sample. If within that time the registrant of the pesticide from whom the official sample was taken makes demand for analysis by a referee chemist, a portion of the official check sample sufficient for analysis shall be sent to a referee chemist who is mutually acceptable to the department and the registrant for analysis at the expense of the registrant. Upon completion of the analysis, the referee chemist shall forward to the department and to the registrant a certificate of analysis bearing a proper identification mark or number; and such certificate of analysis shall be verified by an affidavit of the person or laboratory making the analysis. If the certificate of analysis checks within 3 percent of the department's analysis on each active ingredient for which analysis was made, the mean average of the two analyses shall be accepted as final and binding on all concerned. However, if the referee's certificate of analysis shows a variation of greater than 3 percent from the department's analysis in any one or more of the active ingredients for which an analysis was made, upon demand of either the department or the registrant from whom the official sample was taken, a portion of the official check sample sufficient for analysis shall be submitted to a second referee chemist who is mutually acceptable to the department and the registrant, at the expense of the party or parties requesting the referee analysis. Upon completion of the analysis, the second referee chemist shall make a certificate and report as provided in this subsection for the first referee chemist. The mean average of the two analyses nearest in conformity shall be accepted as final and binding on all

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

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

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

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

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

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

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

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

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

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

487.081 Exemptions.--

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

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

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

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

487.091 Tolerances, deficiencies, and penalties.--

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

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

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

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

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

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

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

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

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

487.111 Seizure, condemnation, and sale.--

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

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

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

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

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

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

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

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

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

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

487.161 Exemptions, nonagricultural pest control and research.--

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

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

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

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

487.163 Information; interagency cooperation.--

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

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

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

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

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

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

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

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

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

487.175 Penalties; administrative fine; injunction.--

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

(a) Denial of an application for licensure.

(b) Revocation or suspension of a license.

(c) Issuance of a warning letter.

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

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

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

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

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

482.242 Preemption.--

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

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

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

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

(c) Regulations that:

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

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

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

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

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

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

(f) Hazardous material unlawful discharge and disposal.

(g) Hazardous materials remediation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) "Retaliatory action" means an action, such as dismissal, demotion, harassment, blacklisting with other employers, reducing pay or work hours, or taking away company

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Take retaliatory action.

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

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

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

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

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

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

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

500.03 Definitions; construction; applicability.--

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

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

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

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

(1) Inspecting and drawing samples of: commercial feeds offered for sale in this state and enforcing those provisions of chapter 580 authorized by the department; seeds offered for sale in this state and enforcing those provisions of chapter 578 authorized by the department; certified seed grown in this state; fertilizers offered for sale in this state and enforcing those provisions of chapter 576 authorized by the department; and pesticides offered for sale in this state, and soil and water in this state for the presence of pesticides, and enforcing those provisions of part I of chapter 487 authorized by the department.

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

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

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440.16 Compensation for death.--

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

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

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

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training, and outreach activities related to migrant labor.

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