

1                                   A bill to be entitled  
2           An act relating to worker safety with respect to  
3           agricultural pesticides; creating s. 487.2011, F.S.;  
4           providing a popular name; providing for administration by  
5           the Department of Agriculture and Consumer Services;  
6           creating s. 487.2021, F.S.; declaring legislative intent;  
7           creating s. 487.2031, F.S.; defining terms; creating s.  
8           487.2041, F.S.; providing for enforcement of federal  
9           worker protection regulations; creating s. 487.2051, F.S.;  
10          requiring agricultural employers to make agricultural  
11          pesticide information available to workers and medical  
12          personnel; requiring distributors, manufacturers, or  
13          importers of agricultural pesticides to provide certain  
14          information; requiring the Department of Agriculture and  
15          Consumer Services to make certain agricultural pesticide  
16          safety information available; creating s. 487.2061, F.S.;  
17          prohibiting agricultural employers from failing to provide  
18          required information and from taking retaliatory action  
19          against workers for exercising their rights; creating s.  
20          487.2071, F.S.; providing for application of certain  
21          penalties; authorizing workers to seek relief for certain  
22          retaliation; providing procedures; requiring the  
23          department to monitor retaliation complaints and submit a  
24          report to the Legislature; amending ss. 487.011, 487.012,  
25          487.021, 487.025, 487.031, 487.041, 487.0435, 487.045,  
26          487.046, 487.047, 487.049, 487.051, 487.0615, 487.071,  
27          487.081, 487.091, 487.101, 487.111, 487.13, 487.156,  
28          487.159, 487.161, 487.163, 487.171, and 487.175, F.S.;  
29          changing the term "chapter" to "part" to conform to the

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30 act; amending ss. 403.088, 482.242, 500.03, and 570.44,  
 31 F.S.; conforming references; providing a directive to the  
 32 Division of Statutory Revision to designate ss. 487.011-  
 33 487.175, F.S., and ss. 487.2011-487.2071, F.S., as parts I  
 34 and II of ch. 487, F.S., respectively; providing an  
 35 effective date.

36  
 37 Be It Enacted by the Legislature of the State of Florida:

38  
 39 Section 1. Section 487.2011, Florida Statutes, is created  
 40 to read:

41 487.2011 Part title; administration.--This part may be  
 42 popularly known as the "Florida Agricultural Worker Safety Act"  
 43 and shall be administered by the Department of Agriculture and  
 44 Consumer Services.

45 Section 2. Section 487.2021, Florida Statutes, is created  
 46 to read:

47 487.2021 Legislative intent.--It is the intent of the  
 48 Legislature to ensure that agricultural workers employed in the  
 49 state receive protection from agricultural pesticides. The  
 50 Legislature intends to ensure that agricultural workers be given  
 51 information concerning agricultural pesticides.

52 Section 3. Section 487.2031, Florida Statutes, is created  
 53 to read:

54 487.2031 Definitions.--For purposes of this part, the  
 55 term:

56 (1) "Agricultural employer" means any person who hires or  
 57 contracts for the services of workers, for any type of  
 58 compensation, to perform activities related to the production of

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59 agricultural plants, or any person who is an owner of or is  
 60 responsible for the management or condition of an agricultural  
 61 establishment that uses such workers.

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

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

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

70 (5) "Designated representative" means any immediate family  
 71 member, health service provider, coworker, or language  
 72 interpreter to whom a worker gives written authorization to  
 73 exercise the right to request the agricultural pesticide  
 74 information pursuant to this part.

75 (6) "Fact sheet" means any state or federally approved  
 76 fact sheet.

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

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

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

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

86 2. The known acute health effects and chronic health  
 87 effects of exposure to the agricultural pesticide, including

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88 those medical conditions which are generally recognized as being  
 89 aggravated by exposure to the agricultural pesticide.

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

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

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

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

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

106 (8) "Retaliation" means actions, such as dismissal,  
 107 demotion, harassment, blacklisting with other employers,  
 108 reducing pay or work hours, or taking away company housing, by  
 109 any agricultural employer against any worker who exercises any  
 110 right under the United States Environmental Protection Agency  
 111 Worker Protection Standard, 40 C.F.R. s. 170.7(b), or this part.

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

116 (10) "Worker" means any person, including a farmworker or

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117 a self-employed person, who is employed for any type of  
 118 compensation and who is performing activities relating to the  
 119 production of agricultural plants on an agricultural  
 120 establishment. The term "worker" does not include any person  
 121 employed by a commercial pesticide handling establishment to  
 122 perform tasks as a crop advisor.

123 Section 4. Section 487.2041, Florida Statutes, is created  
 124 to read:

125 487.2041 Enforcement of federal worker protection  
 126 regulations.--The department shall continue, to the extent that  
 127 resources are available, to operate under the regulations  
 128 established by the United States Environmental Protection Agency  
 129 Labeling Requirement for Pesticides and Devices, 40 C.F.R. part  
 130 156, and the Worker Protection Standard, 40 C.F.R. part 170,  
 131 which the department adopted by rule during the 1995-1996 fiscal  
 132 year and published in the Florida Administrative Code. Any  
 133 provision of this part not preempted by federal law shall  
 134 continue to apply.

135 Section 5. Section 487.2051, Florida Statutes, is created  
 136 to read:

137 487.2051 Availability of agricultural pesticide  
 138 information to workers and medical personnel.--

139 (1)(a) The agricultural employer shall make available,  
 140 upon request, agricultural pesticide information concerning any  
 141 agricultural pesticide to any worker who enters an agricultural  
 142 pesticide treated area on an agricultural establishment where,  
 143 within the last 30 days, an agricultural pesticide has been  
 144 applied or a restricted-entry interval has been in effect or to  
 145 any worker who may be exposed to the agricultural pesticide

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146 during normal conditions of use or in a foreseeable emergency.

147 (b) The agricultural pesticide information shall be in the  
 148 form of a material safety data sheet or a state or federally  
 149 approved fact sheet. The agricultural employer shall provide a  
 150 written copy of the information specified in this section within  
 151 2 working days after a request for the information by a worker  
 152 or a designated representative of the worker. In case of a  
 153 pesticide-related medical emergency, the information shall be  
 154 provided promptly upon request to the worker or medical  
 155 personnel treating the worker.

156 (c) The distributor, manufacturer, or importer of  
 157 agricultural pesticides shall prepare and provide each direct  
 158 purchaser of agricultural pesticides with a material safety data  
 159 sheet. If the material safety data sheet or fact sheet for the  
 160 agricultural pesticide is not available at the time the  
 161 agricultural pesticide is purchased, the agricultural employer  
 162 shall take appropriate and timely steps to obtain the material  
 163 safety data sheet or fact sheet from the distributor, the  
 164 manufacturer, the department, a federal agency, or another  
 165 distribution source.

166 (2) The department shall make available to a trainer a  
 167 one-page general agricultural pesticide safety sheet designed by  
 168 the department. The safety sheet must be in a language  
 169 understandable to the worker and must include, but is not  
 170 limited to, illustrated instructions on prevention of  
 171 agricultural pesticide exposure and toll-free numbers to the  
 172 Florida Poison Control Centers. The trainer shall provide the  
 173 safety sheet to the worker pursuant to the United States  
 174 Environmental Protection Agency Worker Protection Standard, 40

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175 C.F.R. s. 170.130.

176 Section 6. Section 487.2061, Florida Statutes, is created  
177 to read:

178 487.2061 Prohibited acts.--It is unlawful for any  
179 agricultural employer to:

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

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

186 Section 7. Section 487.2071, Florida Statutes, is created  
187 to read:

188 487.2071 Penalties against agricultural employer  
189 violators; worker relief; monitoring complaints of  
190 retaliation.--

191 (1) Penalties set forth in part I of this chapter shall be  
192 applied to any agricultural employer who violates any provision  
193 in this part. Agricultural employers who violate the provisions  
194 of this part also shall be subject to the federal penalties in  
195 the United States Environmental Protection Agency Worker  
196 Protection Standard, 40 C.F.R. s. 170.9(b).

197 (2)(a) Any worker who has been retaliated against by any  
198 agricultural employer for exercising any right under the United  
199 States Environmental Protection Agency Worker Protection  
200 Standard, 40 C.F.R. s. 170.7(b), or this part and seeks relief  
201 shall file a complaint with the department of such retaliation.

202 (b) In any action brought pursuant to this section where  
203 the retaliatory personnel action is predicated upon the

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204 disclosure of an illegal activity, policy, or practice to an  
 205 appropriate governmental agency, the worker shall not be  
 206 required to show that the disclosure to the governmental agency  
 207 was under oath or in writing or that the notification to the  
 208 employer concerning the illegal activity, policy, or practice  
 209 was in writing as provided in s. 448.102(1).

210 (3) The department shall monitor all complaints of  
 211 retaliation which it receives and report its findings to the  
 212 President of the Senate and the Speaker of the House of  
 213 Representatives on or before October 1, 2008. The report shall  
 214 include the number of such complaints received, the  
 215 circumstances surrounding the complaints, and the action taken  
 216 concerning the complaints.

217 Section 8. Section 487.011, Florida Statutes, is amended  
 218 to read:

219 487.011 Part ~~Short~~ title; administration.--This part  
 220 ~~chapter~~ may be popularly known ~~cited~~ as the "Florida Pesticide  
 221 Law" and shall be administered by the Department of Agriculture  
 222 and Consumer Services.

223 Section 9. Section 487.012, Florida Statutes, is amended  
 224 to read:

225 487.012 Declaration of purpose.--The purpose of this part  
 226 ~~chapter~~ is to regulate the distribution, sale, and use of  
 227 pesticides, except as provided in chapters 388 and 482, and to  
 228 protect people and the environment from the adverse effects of  
 229 pesticides.

230 Section 10. Section 487.021, Florida Statutes, is amended  
 231 to read:

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232 487.021 Definitions.--For the purpose of this part

233 ~~chapter~~:

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

241 (2) "Active ingredient" means:

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

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

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

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

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

258 (4) "Adulterated" applies to any pesticide if its strength  
 259 or purity falls below or is in excess of the professed standard  
 260 of quality as expressed on labeling or under which it is sold,

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261 if any substance has been substituted wholly or in part for the  
 262 pesticide or if any valuable constituent of the pesticide has  
 263 been wholly or in part abstracted.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

319 (22) "Device" means any instrument or contrivance (other  
 320 than a firearm) which is intended for trapping, destroying,  
 321 repelling, or mitigating, any pest or other form of plant or  
 322 animal life (other than human and other than bacteria, virus, or  
 323 other microorganism on or in living humans or other living  
 324 animals); but not including equipment used for the application  
 325 of pesticides when sold separately.

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

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

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

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

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

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

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

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

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

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

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

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

371 (35) "Ingredient statement" means a statement of the name  
 372 and percentage by weight of each active ingredient, together

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373 with the total percentage of the inert ingredients in the  
 374 pesticides.

375 (36) "Insect" means any of the numerous small invertebrate  
 376 animals generally having the body more or less obviously  
 377 segmented, for the most part belonging to the class Insecta,  
 378 comprising six legs, usually in winged form (as, for example,  
 379 beetles, bugs, bees, and flies) and to other allied classes and  
 380 arthropods whose members are wingless and usually have more than  
 381 six legs (as, for example, spiders, mites, ticks, centipedes,  
 382 and wood lice).

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

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

394 (39) "Labeling" means all labels and other written,  
 395 printed, or graphic matter referencing the pesticide or device  
 396 or upon any of its containers or wrappers, or accompanying the  
 397 pesticide or device at any time, but does not include accurate,  
 398 nonmisleading reference to current official publications of the  
 399 United States Departments of Agriculture or Interior, the  
 400 Environmental Protection Agency, the United States Public Health  
 401 Service, state experiment stations, state agricultural colleges,

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402 or other similar federal institutions or official agencies of  
 403 this state or other states authorized by law to conduct research  
 404 in the field of pesticides.

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

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

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

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

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

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

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

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

430 (48) "Pest" means:

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431 (a) Any insect, rodent, nematode, fungus, weed; or  
 432 (b) Any other form of terrestrial or aquatic plant or  
 433 animal life or virus, bacteria, or other microorganism, except  
 434 viruses, bacteria, or other microorganisms on or in living  
 435 humans or other living animals, which is declared to be a pest  
 436 by the administrator of the United States Environmental  
 437 Protection Agency or which may be declared to be a pest by the  
 438 department by rule.

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

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

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

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

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

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460 (51) "Plant regulator" means any substance or mixture of  
 461 substances intended, through physiological action, for  
 462 accelerating or retarding the rate of growth or maturation, or  
 463 for otherwise altering the behavior, of ornamental or crop  
 464 plants or the produce thereof; but does not include substances  
 465 intended as plant nutrients, trace elements, nutritional  
 466 chemicals, plant inoculants, or soil amendments.

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

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

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

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

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488 (56) "Product specific applicator" means an individual who  
 489 has reached the age of majority and is licensed by the  
 490 department to use or supervise the use of a particular  
 491 restricted-use pesticide product that is identified on the  
 492 license by the United States Environmental Protection Agency  
 493 registration number, as well as any Florida special local need  
 494 registration number and any specific identifying information as  
 495 deemed appropriate for nonfederally registered products exempt  
 496 under s. 18 of the Federal Insecticide, Fungicide, and  
 497 Rodenticide Act, provided that the restricted-use pesticide  
 498 product is used for the purpose of producing agricultural  
 499 commodities on property owned or rented by the licensee or the  
 500 licensee's employer, or is applied on the property of another  
 501 person without compensation other than trading of personal  
 502 services between producers of agricultural commodities.

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

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

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

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

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

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

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

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

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

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

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

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545 Section 11. Paragraphs (b) and (f) of subsection (2) of  
 546 section 487.025, Florida Statutes, are amended to read:

547 487.025 Misbranding.--

548 (2) A pesticide is misbranded if:

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

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

558 Section 12. Subsections (2), (4), and (5) and paragraphs  
 559 (g), (h), (l), (n), (p), (q), and (r) of subsection (13) of  
 560 section 487.031, Florida Statutes, are amended to read:

561 487.031 Prohibited acts.--It is unlawful:

562 (2) To distribute, sell, or offer for sale within this  
 563 state any pesticide or product which has not been registered  
 564 pursuant to the provisions of this part ~~chapter~~, except  
 565 pesticides distributed, sold, offered for sale, or used in  
 566 accordance with the provisions of federal or state restriction,  
 567 supervision, or cancellation orders or other existing stock  
 568 agreements.

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

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

583 (13) For any person to:

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

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

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

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

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

601 (q) Fail to adequately train, as provided for in this part  
 602 ~~chapter~~, unlicensed applicators or mixer-loaders applying

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603 restricted-use pesticides under the direct supervision of a  
604 licensed applicator; or

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

610 Section 13. Subsections (2), (3), and (8) of section  
611 487.041, Florida Statutes, are amended to read:

612 487.041 Registration.--

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

623 (3) The department shall adopt rules governing the  
624 procedures for pesticide registration and for the review of data  
625 submitted by an applicant for registration of a pesticide. The  
626 department shall determine whether a pesticide should be  
627 registered, registered with conditions, or tested under field  
628 conditions in this state. The department shall determine that  
629 all requests for pesticide registrations meet the requirements  
630 of current state and federal law. The department, whenever it  
631 deems it necessary in the administration of this part ~~chapter~~,

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632 may require the manufacturer or registrant to submit the  
633 complete formula, quantities shipped into or manufactured in the  
634 state for distribution and sale, evidence of the efficacy and  
635 the safety of any pesticide, and other relevant data. The  
636 department may review and evaluate a registered pesticide if new  
637 information is made available which indicates that use of the  
638 pesticide has caused an unreasonable adverse effect on public  
639 health or the environment. Such review shall be conducted upon  
640 the request of the secretary of the Department of Health in the  
641 event of an unreasonable adverse effect on public health or the  
642 secretary of the Department of Environmental Protection in the  
643 event of an unreasonable adverse effect on the environment. Such  
644 review may result in modifications, revocation, cancellation, or  
645 suspension of a pesticide registration. The department, for  
646 reasons of adulteration, misbranding, or other good cause, may  
647 refuse or revoke the registration of any pesticide, after notice  
648 to the applicant or registrant giving the reason for the  
649 decision. The applicant may then request a hearing, pursuant to  
650 chapter 120, on the intention of the department to refuse or  
651 revoke registration, and, upon his or her failure to do so, the  
652 refusal or revocation shall become final without further  
653 procedure. In no event shall registration of a pesticide be  
654 construed as a defense for the commission of any offense  
655 prohibited under this part ~~chapter~~.

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

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660 Section 14. Section 487.0435, Florida Statutes, is amended  
 661 to read:

662 487.0435 License classification.--The department shall  
 663 issue certified applicator licenses in the following  
 664 classifications: certified public applicator; certified private  
 665 applicator; and certified commercial applicator. In addition,  
 666 separate classifications and subclassifications may be specified  
 667 by the department in rule as deemed necessary to carry out the  
 668 provisions of this part ~~chapter~~. Each classification shall be  
 669 subject to requirements or testing procedures to be set forth by  
 670 rule of the department and shall be restricted to the activities  
 671 within the scope of the respective classification as established  
 672 in statute or by rule. In specifying classifications, the  
 673 department may consider, but is not limited to, the following:

- 674 (1) Whether the license sought is for commercial, public,  
 675 or private applicator status.
- 676 (2) The method of applying the restricted-use pesticide.
- 677 (3) The specific crops upon which restricted-use  
 678 pesticides are applied.
- 679 (4) The proximity of populated areas to the land upon  
 680 which restricted-use pesticides are applied.
- 681 (5) The acreage under the control of the licensee.
- 682 (6) The pounds of technical restricted toxicant applied  
 683 per acre per year by the licensee.

684 Section 15. Section 487.045, Florida Statutes, is amended  
 685 to read:

686 487.045 Fees.--

- 687 (1) The department shall establish applicable fees by  
 688 rule. The fees shall not exceed \$250 for commercial applicators

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689 or \$100 for private applicators and public applicators, for  
 690 initial licensing and for each subsequent license renewal. The  
 691 fees shall be determined annually and shall represent department  
 692 costs associated with enforcement of the provisions of this part  
 693 ~~chapter~~.

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

698 Section 16. Subsection (2) of section 487.046, Florida  
 699 Statutes, is amended to read:

700 487.046 Application; licensure.--

701 (2) If the department finds the applicant qualified in the  
 702 classification for which the applicant has applied, and if the  
 703 applicant applying for a license to engage in aerial application  
 704 of pesticides has met all of the requirements of the Federal  
 705 Aviation Agency and the Department of Transportation of this  
 706 state to operate the equipment described in the application and  
 707 has shown proof of liability insurance or posted a surety bond  
 708 in an amount to be set forth by rule of the department, the  
 709 department shall issue a certified applicator's license, limited  
 710 to the classifications for which the applicant is qualified. The  
 711 license shall expire as required by rules promulgated under this  
 712 part ~~chapter~~, unless it has been revoked or suspended by the  
 713 department prior to expiration, for cause as provided in this  
 714 part ~~chapter~~. The license or authorization card issued by the  
 715 department verifying licensure shall be kept on the person of  
 716 the licensee while performing work as a licensed applicator.

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717 Section 17. Section 487.047, Florida Statutes, is amended  
 718 to read:

719 487.047 Nonresident license; reciprocal agreement;  
 720 authorized purchase.--

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

725 (2) Any nonresident applying for a license under this part  
 726 ~~chapter~~ to operate in the state shall file a Designation of  
 727 Registered Agent naming the Secretary of State as the agent of  
 728 the nonresident, upon whom process may be served in the event of  
 729 any suit against the nonresident. The designation shall be  
 730 prepared on a form provided by the department and shall render  
 731 effective the jurisdiction of the courts of this state over the  
 732 nonresident applicant. However, any nonresident who has a duly  
 733 appointed registered agent upon whom process may be served as  
 734 provided by law shall not be required to designate the Secretary  
 735 of State as registered agent. The Secretary of State shall be  
 736 allowed the registered-agent fees as provided by law for  
 737 designating registered agents. The department shall be furnished  
 738 with a copy of the designation of the Secretary of State or of a  
 739 registered agent which is certified by the Secretary of State.  
 740 The Secretary of State shall notify the department of any  
 741 service of process it receives as registered agent for persons  
 742 licensed under this part ~~chapter~~.

743 (3) Restricted-use pesticides may be purchased by any  
 744 person who holds a valid applicator's license or who holds a  
 745 valid purchase authorization card issued by the department or by

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746 a licensee under chapter 482 or chapter 388. A nonlicensed  
 747 person may apply restricted-use pesticides under the direct  
 748 supervision of a licensed applicator. An applicator's license  
 749 shall be issued by the department on a form supplied by it in  
 750 accordance with the requirements of this part ~~chapter~~.

751 Section 18. Subsection (1) of section 487.049, Florida  
 752 Statutes, is amended to read:

753 487.049 Renewal; late fee; recertification.--

754 (1) The department shall require renewal of a certified  
 755 applicator's license at 4-year intervals from the date of  
 756 issuance. If the application for renewal of any license provided  
 757 for in this part ~~chapter~~ is not filed on time, a late fee shall  
 758 be assessed not to exceed \$50. However, the penalty shall not  
 759 apply if the renewal application is filed within 60 days after  
 760 the renewal date, provided the applicant furnishes an affidavit  
 761 certifying that he or she has not engaged in business subsequent  
 762 to the expiration of the license for a period not exceeding 60  
 763 days. A license may be renewed without taking another  
 764 examination unless the department determines that new knowledge  
 765 related to the classification for which the applicant has  
 766 applied makes a new examination necessary; however, the  
 767 department may require the applicant to provide evidence of  
 768 continued competency, as determined by rule. If the license is  
 769 not renewed within 60 days of the expiration date, then the  
 770 licensee may again be required to take another examination,  
 771 unless there is some unavoidable circumstance which results in  
 772 the delay of the renewal of any license issued under this part  
 773 ~~chapter~~ which was not under the applicant's control.

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774 Section 19. Paragraph (b) of subsection (1) and subsection  
 775 (2) of section 487.051, Florida Statutes, are amended to read:

776 487.051 Administration; rules; procedure.--

777 (1) The department may by rule:

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

784 (2) The department is authorized to adopt by rule the  
 785 primary standards established by the United States Environmental  
 786 Protection Agency with respect to pesticides. If the provisions  
 787 of this part ~~chapter~~ are preempted in part by federal law, those  
 788 provisions not preempted shall apply. This part ~~chapter~~ is  
 789 intended as comprehensive and exclusive regulation of pesticides  
 790 in this state. Except as provided in chapters 373, 376, 388,  
 791 403, and 482, or as otherwise provided by law, no agency,  
 792 commission, department, county, municipality, or other political  
 793 subdivision of the state may adopt laws, regulations, rules, or  
 794 policies pertaining to pesticides, including their registration,  
 795 packaging, labeling, distribution, sale, or use, except that  
 796 local jurisdictions may adopt or enforce an ordinance pertaining  
 797 to pesticides if that ordinance is in the area of occupational  
 798 license taxes, building and zoning regulations, disposal or  
 799 spillage of pesticides within a water well zone, or pesticide  
 800 safety regulations relating to containment at the storage site.

801 Section 20. Subsection (4) of section 487.0615, Florida  
 802 Statutes, is amended to read:

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803 487.0615 Pesticide Review Council.--

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

810 Section 21. Subsections (1), (2), (3), (4), and (6) and  
 811 paragraphs (a) and (e) of subsection (7) of section 487.071,  
 812 Florida Statutes, are amended to read:

813 487.071 Enforcement, inspection, sampling, and analysis.--

814 (1) The department is authorized to enter upon any public  
 815 or private premises or carrier where pesticides are known or  
 816 thought to be distributed, sold, offered for sale, held, stored,  
 817 or applied, during regular business hours in the performance of  
 818 its duties relating to pesticides and records pertaining to  
 819 pesticides. No person shall deny or refuse access to the  
 820 department when it seeks to enter upon any public or private  
 821 premises or carrier during business hours in performance of its  
 822 duties under this part ~~chapter~~.

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

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831 (3) The official analysis shall be made from the official  
832 sample. A sealed and identified sample, herein called "official  
833 check sample" shall be kept until the analysis on the official  
834 sample is completed. However, the registrant may obtain upon  
835 request a portion of the official sample. Upon completion of the  
836 analysis of the official sample, a true copy of the certificate  
837 of analysis shall be mailed to the registrant of the pesticide  
838 from whom the official sample was taken and also to the dealer  
839 or agent, if any, and consumer, if known. If the official  
840 analysis conforms with the provisions of this part ~~chapter~~, the  
841 official check sample may be destroyed. If the official analysis  
842 does not conform with the provisions of this part ~~chapter~~, the  
843 rules adopted under this part ~~chapter~~, and the provisions of the  
844 pesticide label or labeling, the official check sample shall be  
845 retained for a period of 90 days from the date of the  
846 certificate of analysis of the official sample. If within that  
847 time the registrant of the pesticide from whom the official  
848 sample was taken makes demand for analysis by a referee chemist,  
849 a portion of the official check sample sufficient for analysis  
850 shall be sent to a referee chemist who is mutually acceptable to  
851 the department and the registrant for analysis at the expense of  
852 the registrant. Upon completion of the analysis, the referee  
853 chemist shall forward to the department and to the registrant a  
854 certificate of analysis bearing a proper identification mark or  
855 number; and such certificate of analysis shall be verified by an  
856 affidavit of the person or laboratory making the analysis. If  
857 the certificate of analysis checks within 3 percent of the  
858 department's analysis on each active ingredient for which  
859 analysis was made, the mean average of the two analyses shall be

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860 accepted as final and binding on all concerned. However, if the  
 861 referee's certificate of analysis shows a variation of greater  
 862 than 3 percent from the department's analysis in any one or more  
 863 of the active ingredients for which an analysis was made, upon  
 864 demand of either the department or the registrant from whom the  
 865 official sample was taken, a portion of the official check  
 866 sample sufficient for analysis shall be submitted to a second  
 867 referee chemist who is mutually acceptable to the department and  
 868 the registrant, at the expense of the party or parties  
 869 requesting the referee analysis. Upon completion of the  
 870 analysis, the second referee chemist shall make a certificate  
 871 and report as provided in this subsection for the first referee  
 872 chemist. The mean average of the two analyses nearest in  
 873 conformity shall be accepted as final and binding on all  
 874 concerned. If no demand is made for an analysis by a second  
 875 referee chemist, the department's certificate of analysis shall  
 876 be accepted as final and binding on all concerned.

877 (4) If a pesticide or device fails to comply with the  
 878 provisions of this part ~~chapter~~ with reference to the ingredient  
 879 statement reflecting the composition of the product, as required  
 880 on the registration and labeling, and the department  
 881 contemplates possible criminal proceedings against the person  
 882 responsible because of this violation, the department shall,  
 883 after due notice, accord the person an informal hearing or an  
 884 opportunity to present evidence and opinions, either orally or  
 885 in writing, with regard to such contemplated proceedings. If in  
 886 the opinion of the department the facts warrant, the department  
 887 may refer the facts to the state attorney for the county in  
 888 which the violation occurred, with a copy of the results of the

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889 analysis or the examination of such article; provided that  
 890 nothing in this part ~~chapter~~ shall be construed as requiring the  
 891 department to report for prosecution minor violations whenever  
 892 it believes that the public interest will be subserved by a  
 893 suitable notice of warning in writing.

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

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

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

904 Section 22. Subsections (2), (3), and (4) of section  
 905 487.081, Florida Statutes, are amended to read:

906 487.081 Exemptions.--

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

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

916 (4) Nothing in this part ~~chapter~~ shall be construed to  
 917 apply to persons duly licensed or certified under chapter 388 or

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918 chapter 482 performing any pest control or other operation for  
 919 which they are licensed or certified under those chapters.

920 Section 23. Subsection (2) of section 487.091, Florida  
 921 Statutes, is amended to read:

922 487.091 Tolerances, deficiencies, and penalties.--

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

938 Section 24. Section 487.101, Florida Statutes, is amended  
 939 to read:

940 487.101 Stop-sale, stop-use, removal, or hold orders.--

941 (1) When a pesticide or device is being offered or exposed  
 942 for sale, used, or held in violation of any of the provisions of  
 943 this part ~~chapter~~, the department may issue and enforce a stop-  
 944 sale, stop-use, removal, or hold order, in writing, to the owner  
 945 or custodian of the pesticide or device, ordering that the  
 946 pesticide or device be held at a designated place until the part

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947 ~~chapter~~ has been complied with and the pesticide or device is  
 948 released, in writing, by the department or the violation has  
 949 been disposed of by court order.

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

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

963 (4) The owner or custodian, with authorization and  
 964 supervision of the department, may relabel the pesticide or  
 965 device so that the label will conform to the product, or  
 966 transfer and return the product to the manufacturer or supplier  
 967 for the purpose of bringing the product in compliance with the  
 968 provisions of this part ~~chapter~~.

969 Section 25. Subsection (1) of section 487.111, Florida  
 970 Statutes, is amended to read:

971 487.111 Seizure, condemnation, and sale.--

972 (1) Any lot of pesticide or device not in compliance with  
 973 the provisions of this part ~~chapter~~ is subject to seizure on  
 974 complaint of the department to the circuit court in the county  
 975 in which the pesticide or device is located. In the event the

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976 court finds the pesticide or device in violation of this part  
 977 ~~chapter~~ and orders it condemned, it shall be disposed of as the  
 978 court may direct; provided that in no instance shall the  
 979 disposition of the pesticide or device be ordered by the court  
 980 without first giving the owner or custodian an opportunity to  
 981 apply to the court for release of the pesticide or device or for  
 982 permission to process or relabel it to bring it into compliance  
 983 with this part ~~chapter~~.

984 Section 26. Section 487.13, Florida Statutes, is amended  
 985 to read:

986 487.13 Cooperation.--The department is authorized and  
 987 empowered to cooperate with and enter into agreements with any  
 988 other agency of this state, the United States Department of  
 989 Agriculture, the United States Environmental Protection Agency,  
 990 and any other state or federal agency for the purpose of  
 991 carrying out the provisions of this part ~~chapter~~ and securing  
 992 uniformity of regulations.

993 Section 27. Section 487.156, Florida Statutes, is amended  
 994 to read:

995 487.156 Governmental agencies.--All governmental agencies  
 996 shall be subject to the provisions of this part ~~chapter~~ and  
 997 rules adopted under this part ~~chapter~~. Public applicators using  
 998 or supervising the use of restricted-use pesticides shall be  
 999 subject to examination as provided in s. 487.044.

1000 Section 28. Subsection (1) of section 487.159, Florida  
 1001 Statutes, is amended to read:

1002 487.159 Damage or injury to property, animal, or person;  
 1003 mandatory report of damage or injury; time for filing; failure  
 1004 to file.--

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1005 (1) The person claiming damage or injury to property,  
 1006 animal, or human beings from application of a pesticide shall  
 1007 file with the department a written statement claiming damages,  
 1008 on a form prescribed by the department, within 48 hours after  
 1009 the damage or injury becomes apparent. The statement shall  
 1010 contain, but shall not be limited to, the name of the person  
 1011 responsible for the application of the pesticide, the name of  
 1012 the owner or lessee of the land on which the crop is grown and  
 1013 for which the damages are claimed, and the date on which it is  
 1014 alleged that the damages occurred. The department shall  
 1015 investigate the alleged damages and notify all concerned parties  
 1016 of its findings. If the findings reveal a violation of the  
 1017 provisions of this part ~~chapter~~, the department shall determine  
 1018 an appropriate penalty, as provided in this part ~~chapter~~. The  
 1019 filing of a statement or the failure to file such a statement  
 1020 need not be alleged in any complaint which might be filed in a  
 1021 court of law, and the failure to file the statement shall not be  
 1022 considered any bar to the maintenance of any criminal or civil  
 1023 action.

1024 Section 29. Section 487.161, Florida Statutes, is amended  
 1025 to read:

1026 487.161 Exemptions, nonagricultural pest control and  
 1027 research.--

1028 (1) Any person duly licensed or certified under chapter  
 1029 482, or under the supervision of chapter 388, is exempted from  
 1030 the licensing provisions of this part ~~chapter~~.

1031 (2) The use of the antibiotic oxytetracycline  
 1032 hydrochloride for the purpose of controlling lethal yellowing is  
 1033 exempted from the licensing provisions of this part ~~chapter~~.

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1034 (3) The personnel of governmental, university, or  
 1035 industrial research agencies are exempted from the provisions of  
 1036 this part ~~chapter~~ when doing applied research within a  
 1037 laboratory, but shall comply with all the provisions of this  
 1038 part ~~chapter~~ when applying restricted-use pesticides to  
 1039 experimental or demonstration plots.

1040 Section 30. Section 487.163, Florida Statutes, is amended  
 1041 to read:

1042 487.163 Information; interagency cooperation.--

1043 (1) The department may, in cooperation with the University  
 1044 of Florida or other agencies of government, publish information  
 1045 and conduct short courses of instruction in the safe use and  
 1046 application of pesticides for the purpose of carrying out the  
 1047 provisions of this part ~~chapter~~.

1048 (2) The department may cooperate or enter into formal  
 1049 agreements with any other agency or educational institution of  
 1050 this state or its subdivisions or with any agency of any other  
 1051 state or of the Federal Government for the purpose of carrying  
 1052 out the provisions of this part ~~chapter~~ and of securing  
 1053 uniformity of regulations.

1054 Section 31. Subsections (1), (2), and (3) of section  
 1055 487.171, Florida Statutes, are amended to read:

1056 487.171 Classification of antifouling paint containing  
 1057 organotin compounds as restricted-use pesticides; prohibition of  
 1058 distribution and sale.--

1059 (1) The department shall classify antifouling paints  
 1060 containing organotin compounds having an acceptable release rate  
 1061 as restricted-use pesticides subject to the requirements of this  
 1062 part ~~chapter~~. Antifouling paints containing organotin having

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1063 acceptable release rates and sold in spray cans of 16 ounces  
 1064 avoirdupois weight or less for outboard motor or lower unit use  
 1065 are exempt from the restricted-use pesticide classification  
 1066 requirement.

1067 (2) The department shall initiate action under chapter  
 1068 120, to deny or cancel the registration of antifouling paints  
 1069 containing organotin compounds which do not have an acceptable  
 1070 release rate or do not meet other criteria established by the  
 1071 department in accordance with this part ~~chapter~~.

1072 (3) Distribution, sale, and use of antifouling paints  
 1073 containing organotin compounds with acceptable release rates  
 1074 shall be limited to dealers and applicators licensed by the  
 1075 department in accordance with this part ~~chapter~~, to distribute,  
 1076 sell, or use restricted-use pesticides. Such paint may be  
 1077 applied only by licensed applicators and may be applied only to  
 1078 vessels which exceed 25 meters in length or which have aluminum  
 1079 hulls.

1080 Section 32. Section 487.175, Florida Statutes, is amended  
 1081 to read:

1082 487.175 Penalties; administrative fine; injunction.--

1083 (1) In addition to any other penalty provided in this part  
 1084 ~~chapter~~, when the department finds any person, applicant, or  
 1085 licensee has violated any provision of this part ~~chapter~~ or rule  
 1086 adopted under this part ~~chapter~~, it may enter an order imposing  
 1087 any one or more of the following penalties:

- 1088 (a) Denial of an application for licensure.
- 1089 (b) Revocation or suspension of a license.
- 1090 (c) Issuance of a warning letter.

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1091 (d) Placement of the licensee on probation for a specified  
 1092 period of time and subject to conditions the department may  
 1093 specify by rule, including requiring the licensee to attend  
 1094 continuing education courses, to demonstrate competency through  
 1095 a written or practical examination, or to work under the direct  
 1096 supervision of another licensee.

1097 (e) Imposition of an administrative fine not to exceed  
 1098 \$10,000 for each violation. When imposing any fine under this  
 1099 paragraph, the department shall consider the degree and extent  
 1100 of harm caused by the violation, the cost of rectifying the  
 1101 damage, the amount of money the violator benefited from by  
 1102 noncompliance, whether the violation was committed willfully,  
 1103 and the compliance record of the violator.

1104 (2) Any person who violates any provision of this part  
 1105 ~~chapter~~ or rules adopted pursuant thereto commits a misdemeanor  
 1106 of the second degree and upon conviction is punishable as  
 1107 provided in ss. 775.082 and 775.083. For a subsequent violation,  
 1108 such person commits a misdemeanor of the first degree and upon  
 1109 conviction is punishable as provided in ss. 775.082 and 775.083.

1110 (3) In addition to the remedies provided in this part  
 1111 ~~chapter~~ and notwithstanding the existence of any adequate remedy  
 1112 at law, the department may bring an action to enjoin the  
 1113 violation or threatened violation of any provision of this part  
 1114 ~~chapter~~, or rule adopted under this part ~~chapter~~, in the circuit  
 1115 court of the county in which the violation occurred or is about  
 1116 to occur. Upon the department's presentation of competent and  
 1117 substantial evidence to the court of the violation or threatened  
 1118 violation, the court shall immediately issue the temporary or  
 1119 permanent injunction sought by the department. The injunction

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1120 shall be issued without bond. A single act in violation of any  
 1121 provision of this part ~~chapter~~ shall be sufficient to authorize  
 1122 the issuance of an injunction.

1123 Section 33. Subsection (1) of section 403.088, Florida  
 1124 Statutes, is amended to read:

1125 403.088 Water pollution operation permits; conditions.--

1126 (1) No person, without written authorization of the  
 1127 department, shall discharge into waters within the state any  
 1128 waste which, by itself or in combination with the wastes of  
 1129 other sources, reduces the quality of the receiving waters below  
 1130 the classification established for them. However, this section  
 1131 shall not be deemed to prohibit the application of pesticides to  
 1132 waters in the state for the control of insects, aquatic weeds,  
 1133 or algae, provided the application is performed pursuant to a  
 1134 program approved by the Department of Health, in the case of  
 1135 insect control, or the department, in the case of aquatic weed  
 1136 or algae control. The department is directed to enter into  
 1137 interagency agreements to establish the procedures for program  
 1138 approval. Such agreements shall provide for public health,  
 1139 welfare, and safety, as well as environmental factors. Approved  
 1140 programs must provide that only chemicals approved for the  
 1141 particular use by the United States Environmental Protection  
 1142 Agency or by the Department of Agriculture and Consumer Services  
 1143 may be employed and that they be applied in accordance with  
 1144 registered label instructions, state standards for such  
 1145 application, and the provisions of the Florida Pesticide Law,  
 1146 part I of chapter 487.

1147 Section 34. Subsection (1) of section 482.242, Florida  
 1148 Statutes, is amended to read:

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1149 482.242 Preemption.--

1150 (1) This chapter is intended as comprehensive and  
 1151 exclusive regulation of pest control in this state. The  
 1152 provisions of this chapter preempt to the state all regulation  
 1153 of the activities and operations of pest control services,  
 1154 including the pesticides used pursuant to labeling and  
 1155 registration approved under part I of chapter 487. No local  
 1156 government or political subdivision of the state may enact or  
 1157 enforce an ordinance that regulates pest control, except that  
 1158 the preemption in this section does not prohibit a local  
 1159 government or political subdivision from enacting an ordinance  
 1160 regarding any of the following:

1161 (a) Local occupational licenses adopted pursuant to  
 1162 chapter 205.

1163 (b) Land development regulations adopted pursuant to  
 1164 chapter 163 which include regulation of any aspect of  
 1165 development, including a subdivision, building construction,  
 1166 sign regulation or any other regulation concerning the  
 1167 development of land, or landscaping or tree protection  
 1168 ordinances which do not include pesticide application  
 1169 restrictions.

1170 (c) Regulations that:

1171 1. Require, for multicomplex dwellings in excess of 10  
 1172 units, annual termite inspections for termite activity or  
 1173 damage, including Formosan termites, which must be performed by  
 1174 a person licensed under this chapter.

1175 2. Require pest control treatments of structures that have  
 1176 termite activity or damage which must be performed by a person  
 1177 licensed under this chapter.

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1178 3. Require property owners or other persons to obtain  
 1179 inspections or pest control treatments performed by a person  
 1180 licensed under this chapter.

1181  
 1182 An ordinance by a local government or political subdivision  
 1183 which requires an annual inspection or pest control treatment  
 1184 must conform to current law.

1185 (d) Protection of wellhead protection areas and high  
 1186 recharge areas.

1187 (e) Hazardous materials reporting as set forth in part II  
 1188 of chapter 252, storage, and containment including as relating  
 1189 to stormwater management.

1190 (f) Hazardous material unlawful discharge and disposal.

1191 (g) Hazardous materials remediation.

1192 Section 35. Paragraph (x) of subsection (1) of section  
 1193 500.03, Florida Statutes, is amended to read:

1194 500.03 Definitions; construction; applicability.--

1195 (1) For the purpose of this chapter, the term:

1196 (x) "Pesticide chemical" means any substance which, alone,  
 1197 in chemical combination, or in formulation with one or more  
 1198 other substances is a "pesticide" within the meaning of the  
 1199 Florida Pesticide Law, part I of chapter 487, and which is used  
 1200 in the production, storage, or transportation of raw  
 1201 agricultural commodities.

1202 Section 36. Subsections (1) and (6) of section 570.44,  
 1203 Florida Statutes, are amended to read:

1204 570.44 Division of Agricultural Environmental Services;  
 1205 powers and duties.--The duties of the Division of Agricultural  
 1206 Environmental Services include, but are not limited to:

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1207 (1) Inspecting and drawing samples of: commercial feeds  
 1208 offered for sale in this state and enforcing those provisions of  
 1209 chapter 580 authorized by the department; seeds offered for sale  
 1210 in this state and enforcing those provisions of chapter 578  
 1211 authorized by the department; certified seed grown in this  
 1212 state; fertilizers offered for sale in this state and enforcing  
 1213 those provisions of chapter 576 authorized by the department;  
 1214 and pesticides offered for sale in this state, and soil and  
 1215 water in this state for the presence of pesticides, and  
 1216 enforcing those provisions of part I of chapter 487 authorized  
 1217 by the department.

1218 (6) Analyzing samples of pesticide formulations offered  
 1219 for sale in this state and tank mix, soil, water, and other  
 1220 environmental samples related to pesticide use investigations,  
 1221 as required under part I of chapter 487.

1222 Section 37. In editing manuscript for the next edition of  
 1223 the official Florida Statutes, the Division of Statutory  
 1224 Revision shall designate ss. 487.011-487.175, Florida Statutes,  
 1225 as part I of that chapter, the "Florida Pesticide Law," and ss.  
 1226 487.2011-487.2071, Florida Statutes, as created by this act, as  
 1227 part II of that chapter, the "Florida Agricultural Worker Safety  
 1228 Act."

1229 Section 38. This act shall take effect July 1, 2004.