

By Senators Hill and Alexander

1-1005-04

1 A bill to be entitled
2 An act relating to worker safety with respect
3 to agricultural pesticides; creating s.
4 487.2011, F.S.; providing a short title;
5 creating s. 487.2021, F.S.; declaring
6 legislative intent; creating s. 487.2031, F.S.;
7 defining terms; creating s. 487.2041, F.S.;
8 providing for enforcement of federal worker
9 protection regulations; creating s. 487.2051,
10 F.S.; requiring agricultural employers to make
11 agricultural pesticide information available to
12 workers, designated representatives, and
13 medical personnel; creating s. 487.2061, F.S.;
14 prohibiting agricultural employers from failing
15 to provide required information and from taking
16 retaliatory action against workers for
17 exercising their rights; creating s. 487.2071,
18 F.S.; providing penalties; providing for relief
19 against retaliation; providing for monitoring
20 complaints of retaliation; providing for a
21 report; providing an effective date.

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

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25 Section 1. Section 487.2011, Florida Statutes, is
26 created to read:
27 487.2011 Short title.--This part may be cited as the
28 "Florida Agricultural Worker Safety Act" and shall be
29 administered by the Department of Agriculture and Consumer
30 Services.

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

3 487.2021 Legislative intent.--It is the intent of the
4 Legislature, by this part, to ensure that agricultural workers
5 employed in the state receive protection from agricultural
6 pesticides. The Legislature intends to assure that
7 agricultural workers be given information concerning
8 agricultural pesticides.

9 Section 3. Section 487.2031, Florida Statutes, is
10 created to read:

11 487.2031 Definitions.--For purposes of this part, the
12 term:

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

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

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

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

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

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1 (6) "Fact sheet" means any state or federally approved
2 fact sheet.

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

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

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

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

12 2. The known acute health effects and chronic health
13 effects of risks from exposure to the agricultural pesticide,
14 including those medical conditions which are generally
15 recognized as being aggravated by exposure to the agricultural
16 pesticide.

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

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

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

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

30 (f) The year and the month, if available, that the
31 information was compiled and the name, address, and emergency

1 telephone number of the manufacturer responsible for preparing
2 the information.

3 (8) "Retaliation" means actions, such as dismissal,
4 demotion, harassment, blacklisting with other employers,
5 reducing pay or work hours, or taking away company housing, by
6 any agricultural employer against any worker who exercises any
7 right under the United States Environmental Protection Agency
8 Worker Protection Standard, 40 C.F.R. s. 170.7(b) (August 21,
9 1992) or this part.

10 (9) "Trainer" means any person who qualifies to train
11 workers under the pesticide safety training requirements of
12 the United States Environmental Protection Agency Worker
13 Protection Standard, 40 C.F.R. s. 170.130 (August 21, 1992).

14 (10) "Worker" means any person, including a farmworker
15 or a self-employed person, who is employed for any type of
16 compensation and who is performing activities relating to the
17 production of agricultural plants on an agricultural
18 establishment. The term "worker" does not include any person
19 employed by a commercial pesticide handling establishment to
20 perform tasks as crop advisors.

21 Section 4. Section 487.2041, Florida Statutes, is
22 created to read:

23 487.2041 Enforcement of federal worker protection
24 regulations.--The department shall continue to operate under
25 the regulations established by the United States Environmental
26 Protection Agency Labeling Requirement for Pesticides and
27 Devices, 40 C.F.R. part 156, and the Worker Protection
28 Standard, 40 C.F.R. part 170, adopted August 21, 1992, which
29 the department adopted by rule, during the 1995-1996 fiscal
30 year, to the Florida Administrative Code. Any provisions of
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1 this part not preempted by federal law, shall continue to
2 apply.

3 Section 5. Section 487.2051, Florida Statutes, is
4 created to read:

5 487.2051 Availability of agricultural pesticide
6 information to workers and physicians.--

7 (1)(a) The agricultural employer shall make available
8 agricultural pesticide information concerning any agricultural
9 pesticide to any worker who enters an agricultural pesticide
10 treated area on an agricultural establishment where, within
11 the last 30 days, an agricultural pesticide has been applied
12 or a restricted-entry interval has been in effect or to any
13 worker who may be exposed to the agricultural pesticide during
14 normal conditions of use or in a foreseeable emergency.

15 (b) The agricultural pesticide information shall be in
16 the form of a material safety data sheet or a state or
17 federally approved fact sheet. The agricultural employer
18 shall provide a written copy of the information specified in
19 this section within 2 working days after a request for the
20 information by a worker, a designated representative of the
21 worker, or medical personnel treating the worker.

22 (c) The distributor, manufacturer, or importer of
23 agricultural pesticides shall prepare and provide each direct
24 purchaser of agricultural pesticides with a material safety
25 data sheet. If the material safety data sheet or fact sheet
26 for the agricultural pesticide is not available at the time
27 the agricultural pesticide is purchased, the agricultural
28 employer shall take appropriate and timely steps to obtain the
29 material safety data sheet or fact sheet from the distributor,
30 the manufacturer, the department, a federal agency, or another
31 distribution source.

1 (2) The department shall make available to the trainer
2 the one-page general agricultural pesticide safety sheet
3 designed by the department. The safety sheet shall always be
4 in a language understood by the worker and must include, but
5 need not be limited to, illustrated instructions on prevention
6 of agricultural pesticide exposure and toll-free numbers to
7 the Florida Poison Control Centers. The trainer shall provide
8 the safety sheet to the worker at the time of training
9 pursuant to the United States Environmental Protection Agency
10 Worker Protection Standard, 40 C.F.R. s. 170.130 (August 21,
11 1992).

12 Section 6. Section 487.2061, Florida Statutes, is
13 created to read:

14 487.2061 Prohibited acts.--It is unlawful for any
15 agricultural employer to:

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

18 (2) Take any retaliatory action against any worker for
19 exercising any right under the provisions of the United States
20 Environmental Protection Agency Worker Protection Standard, 40
21 C.F.R. s. 170.7(b) (August 21, 1992), or this part.

22 Section 7. Section 487.2071, Florida Statutes, is
23 created to read:

24 487.2071 Penalties against agricultural employer
25 violators; worker relief; monitoring complaints of
26 retaliation.--

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

3 (2)(a) Any worker who has been retaliated against by
4 any agricultural employer for exercising any right under the
5 United States Environmental Protection Agency Worker
6 Protection Standard, 40 C.F.R. s. 170.7(b) (August 21, 1992)
7 or this part, may seek relief under ss. 448.102-448.104.

8 (b) Any worker who has been retaliated against by any
9 agricultural employer for exercising any right under the
10 United States Environmental Protection Agency Worker
11 Protection Standard, 40 C.F.R. s. 170.7(b) (August 21, 1992)
12 or this part and seeks relief pursuant to this section, or the
13 worker's designated representative, shall file a complaint
14 with the department of such retaliation.

15 (c) In any action brought pursuant to this section
16 where the retaliatory personnel action is predicated upon the
17 disclosure of an illegal activity, policy, or practice to an
18 appropriate governmental agency, the worker shall not be
19 required to show that the disclosure to the government agency
20 was under oath or in writing or that the notification to the
21 employer concerning the illegal activity, policy, or practice
22 was in writing as provided in s. 448.102(1).

23 (3) The department shall monitor all complaints of
24 retaliation which it receives and report its findings to the
25 President of the Senate and the Speaker of the House of
26 Representatives on October 1, 2007. The report must include
27 the number of such complaints received, the circumstances
28 surrounding the complaints, and the action taken concerning
29 the complaints.

30 Section 8. The Division of Statutory Revision is
31 requested to designate sections 487.011-487.175, Florida

1 Statutes, as part I of that chapter and sections
2 487.2011-487.2071, Florida Statutes, as created by this act,
3 as part II of that chapter. The division is further requested
4 to name part II the "Florida Agricultural Worker Safety Act."

5 Section 9. This act shall take effect July 1, 2004.

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8 SENATE SUMMARY

9 Creates the Florida Agricultural Worker Safety Act.
10 Requires the Department of Agriculture and Consumer
11 Services to continue to operate under United States
12 E.P.A. worker protection regulations. Requires
13 agricultural employers to make available agricultural
14 pesticide information. Requires distributors,
15 manufacturers, and importers of pesticides to provide
16 such information to purchasers of pesticides. Provides
17 penalties for failing to make required information
18 available and for taking retaliatory action against
19 workers exercising their rights.
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