

By Senator Argenziano

3-1286-04

See HB 1661

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 popular name;  
5           providing for administration by the Department  
6           of Agriculture and Consumer Services; creating  
7           s. 487.2021, F.S.; declaring legislative  
8           intent; creating s. 487.2031, F.S.; defining  
9           terms; creating s. 487.2041, F.S.; providing  
10          for enforcement of federal worker protection  
11          regulations; creating s. 487.2051, F.S.;  
12          requiring agricultural employers to make  
13          agricultural pesticide information available to  
14          workers and medical personnel; requiring  
15          distributors, manufacturers, or importers of  
16          agricultural pesticides to provide certain  
17          information; requiring the Department of  
18          Agriculture and Consumer Services to make  
19          certain agricultural pesticide safety  
20          information available; creating s. 487.2061,  
21          F.S.; prohibiting agricultural employers from  
22          failing to provide required information and  
23          from taking retaliatory action against workers  
24          for exercising their rights; creating s.  
25          487.2071, F.S.; providing for application of  
26          certain penalties; authorizing workers to seek  
27          relief for certain retaliation; providing  
28          procedures; requiring the department to monitor  
29          retaliation complaints and submit a report to  
30          the Legislature; amending ss. 487.011, 487.012,  
31          487.021, 487.025, 487.031, 487.041, 487.0435,

1 487.045, 487.046, 487.047, 487.049, 487.051,  
2 487.0615, 487.071, 487.081, 487.091, 487.101,  
3 487.111, 487.13, 487.156, 487.159, 487.161,  
4 487.163, 487.171, and 487.175, F.S.; changing  
5 the term "chapter" to "part" to conform to the  
6 act; amending ss. 403.088, 482.242, 500.03, and  
7 570.44, F.S.; conforming references; providing  
8 a directive to the Division of Statutory  
9 Revision to designate ss. 487.011-487.175,  
10 F.S., and ss. 487.2011-487.2071, F.S., as parts  
11 I and II of ch. 487, F.S., respectively;  
12 providing an effective date.

13

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

15

16 Section 1. Section 487.2011, Florida Statutes, is  
17 created to read:

18 487.2011 Part title; administration.--This part may be  
19 popularly known as the "Florida Agricultural Worker Safety  
20 Act" and shall be administered by the Department of  
21 Agriculture and Consumer Services.

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

25 487.2021 Legislative intent.--It is the intent of the  
26 Legislature to ensure that agricultural workers employed in  
27 the state receive protection from agricultural pesticides. The  
28 Legislature intends to ensure that agricultural workers be  
29 given information concerning agricultural pesticides.

30

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

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1           487.2031 Definitions.--For purposes of this part, the  
2 term:

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

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

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

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

17           (5) "Designated representative" means any immediate  
18 family member, health service provider, coworker, or language  
19 interpreter to whom a worker gives written authorization to  
20 exercise the right to request the agricultural pesticide  
21 information pursuant to this part.

22           (6) "Fact sheet" means any state or federally approved  
23 fact sheet.

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

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

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

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

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

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

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

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

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

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

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

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

5           (10) "Worker" means any person, including a farmworker  
6 or a self-employed person, who is employed for any type of  
7 compensation and who is performing activities relating to the  
8 production of agricultural plants on an agricultural  
9 establishment. The term "worker" does not include any person  
10 employed by a commercial pesticide handling establishment to  
11 perform tasks as a crop advisor.

12           Section 4. Section 487.2041, Florida Statutes, is  
13 created to read:

14           487.2041 Enforcement of federal worker protection  
15 regulations.--The department shall continue, to the extent  
16 that resources are available, to operate under the regulations  
17 established by the United States Environmental Protection  
18 Agency Labeling Requirement for Pesticides and Devices, 40  
19 C.F.R. part 156, and the Worker Protection Standard, 40 C.F.R.  
20 part 170, which the department adopted by rule during the  
21 1995-1996 fiscal year and published in the Florida  
22 Administrative Code. Any provision of this part not preempted  
23 by federal law shall continue to apply.

24           Section 5. Section 487.2051, Florida Statutes, is  
25 created to read:

26           487.2051 Availability of agricultural pesticide  
27 information to workers and medical personnel.--

28           (1)(a) The agricultural employer shall make available,  
29 upon request, agricultural pesticide information concerning  
30 any agricultural pesticide to any worker who enters an  
31 agricultural pesticide treated area on an agricultural

1 establishment where, within the last 30 days, an agricultural  
2 pesticide has been applied or a restricted-entry interval has  
3 been in effect or to any worker who may be exposed to the  
4 agricultural pesticide during normal conditions of use or in a  
5 foreseeable emergency.

6 (b) The agricultural pesticide information shall be in  
7 the form of a material safety data sheet or a state or  
8 federally approved fact sheet. The agricultural employer shall  
9 provide a written copy of the information specified in this  
10 section within 2 working days after a request for the  
11 information by a worker or a designated representative of the  
12 worker. In case of a pesticide-related medical emergency, the  
13 information shall be provided promptly upon request to the  
14 worker or medical personnel treating the worker.

15 (c) The distributor, manufacturer, or importer of  
16 agricultural pesticides shall prepare and provide each direct  
17 purchaser of agricultural pesticides with a material safety  
18 data sheet. If the material safety data sheet or fact sheet  
19 for the agricultural pesticide is not available at the time  
20 the agricultural pesticide is purchased, the agricultural  
21 employer shall take appropriate and timely steps to obtain the  
22 material safety data sheet or fact sheet from the distributor,  
23 the manufacturer, the department, a federal agency, or another  
24 distribution source.

25 (2) The department shall make available to a trainer a  
26 one-page general agricultural pesticide safety sheet designed  
27 by the department. The safety sheet must be in a language  
28 understandable to the worker and must include, but is not  
29 limited to, illustrated instructions on prevention of  
30 agricultural pesticide exposure and toll-free numbers to the  
31 Florida Poison Control Centers. The trainer shall provide the

1 safety sheet to the worker pursuant to the United States  
2 Environmental Protection Agency Worker Protection Standard, 40  
3 C.F.R. s. 170.130.

4 Section 6. Section 487.2061, Florida Statutes, is  
5 created to read:

6 487.2061 Prohibited acts.--It is unlawful for any  
7 agricultural employer to:

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

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

14 Section 7. Section 487.2071, Florida Statutes, is  
15 created to read:

16 487.2071 Penalties against agricultural employer  
17 violators; worker relief; monitoring complaints of  
18 retaliation.--

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

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

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1           (b) In any action brought pursuant to this section  
2 where the retaliatory personnel action is predicated upon the  
3 disclosure of an illegal activity, policy, or practice to an  
4 appropriate governmental agency, the worker shall not be  
5 required to show that the disclosure to the governmental  
6 agency was under oath or in writing or that the notification  
7 to the employer concerning the illegal activity, policy, or  
8 practice was in writing as provided in s. 448.102(1).

9           (3) The department shall monitor all complaints of  
10 retaliation which it receives and report its findings to the  
11 President of the Senate and the Speaker of the House of  
12 Representatives on or before October 1, 2008. The report shall  
13 include the number of such complaints received, the  
14 circumstances surrounding the complaints, and the action taken  
15 concerning the complaints.

16           Section 8. Section 487.011, Florida Statutes, is  
17 amended to read:

18           487.011 Part ~~Short~~ title; administration.--This part  
19 chapter may be popularly known cited as the "Florida Pesticide  
20 Law" and shall be administered by the Department of  
21 Agriculture and Consumer Services.

22           Section 9. Section 487.012, Florida Statutes, is  
23 amended to read:

24           487.012 Declaration of purpose.--The purpose of this  
25 part ~~chapter~~ is to regulate the distribution, sale, and use of  
26 pesticides, except as provided in chapters 388 and 482, and to  
27 protect people and the environment from the adverse effects of  
28 pesticides.

29           Section 10. Section 487.021, Florida Statutes, is  
30 amended to read:

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1           487.021 Definitions.--For the purpose of this part  
2 ~~chapter~~:

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

11           (2) "Active ingredient" means:

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

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

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

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

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

29           (4) "Adulterated" applies to any pesticide if its  
30 strength or purity falls below or is in excess of the  
31 professed standard of quality as expressed on labeling or

1 under which it is sold, if any substance has been substituted  
2 wholly or in part for the pesticide or if any valuable  
3 constituent of the pesticide has been wholly or in part  
4 abstracted.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           (22) "Device" means any instrument or contrivance  
2 (other than a firearm) which is intended for trapping,  
3 destroying, repelling, or mitigating, any pest or other form  
4 of plant or animal life (other than human and other than  
5 bacteria, virus, or other microorganism on or in living humans  
6 or other living animals); but not including equipment used for  
7 the application of pesticides when sold separately.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 classes and arthropods whose members are wingless and usually  
2 have more than six legs (as, for example, spiders, mites,  
3 ticks, centipedes, and wood lice).

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

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

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

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

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

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

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

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

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

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

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

24 (48) "Pest" means:

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

26 (b) Any other form of terrestrial or aquatic plant or  
27 animal life or virus, bacteria, or other microorganism, except  
28 viruses, bacteria, or other microorganisms on or in living  
29 humans or other living animals, which is declared to be a pest  
30 by the administrator of the United States Environmental

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1 Protection Agency or which may be declared to be a pest by the  
2 department by rule.

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

12 (a) Is a "new animal drug" within the meaning of s.  
13 201(w) of the Federal Food, Drug, and Cosmetic Act;

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

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

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

24 (51) "Plant regulator" means any substance or mixture  
25 of substances intended, through physiological action, for  
26 accelerating or retarding the rate of growth or maturation, or  
27 for otherwise altering the behavior, of ornamental or crop  
28 plants or the produce thereof; but does not include substances  
29 intended as plant nutrients, trace elements, nutritional  
30 chemicals, plant inoculants, or soil amendments.

31



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

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

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

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

22           (56) "Product specific applicator" means an individual  
23 who has reached the age of majority and is licensed by the  
24 department to use or supervise the use of a particular  
25 restricted-use pesticide product that is identified on the  
26 license by the United States Environmental Protection Agency  
27 registration number, as well as any Florida special local need  
28 registration number and any specific identifying information  
29 as deemed appropriate for nonfederally registered products  
30 exempt under s. 18 of the Federal Insecticide, Fungicide, and  
31 Rodenticide Act, provided that the restricted-use pesticide

1 product is used for the purpose of producing agricultural  
2 commodities on property owned or rented by the licensee or the  
3 licensee's employer, or is applied on the property of another  
4 person without compensation other than trading of personal  
5 services between producers of agricultural commodities.

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

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

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

20 (60) "Special local need registration" means a state  
21 registration issued by the department as authorized in s.  
22 24(c) of the Federal Insecticide, Fungicide, and Rodenticide  
23 Act.

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

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

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

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

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

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

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

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

23           487.025 Misbranding.--

24           (2) A pesticide is misbranded if:

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

27           (f) Any word, statement, or other information required  
28 by or under authority of this part ~~chapter~~ to appear on the  
29 labeling is not prominently placed thereon with such  
30 conspicuousness, as compared with other words, statements,  
31 designs, or graphic matter in the labeling, and in such terms

1 as to render it likely to be read and understood by the  
2 ordinary individual under customary conditions of purchase and  
3 use.

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

8 487.031 Prohibited acts.--It is unlawful:

9 (2) To distribute, sell, or offer for sale within this  
10 state any pesticide or product which has not been registered  
11 pursuant to the provisions of this part ~~chapter~~, except  
12 pesticides distributed, sold, offered for sale, or used in  
13 accordance with the provisions of federal or state  
14 restriction, supervision, or cancellation orders or other  
15 existing stock agreements.

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

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

31 (13) For any person to:

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

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

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

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

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

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

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

27           Section 13. Subsections (2), (3), and (8) of section  
28 487.041, Florida Statutes, are amended to read:

29           487.041 Registration.--

30           (2) For the purpose of defraying expenses of the  
31 department in connection with carrying out the provisions of

1 this part ~~chapter~~, each person shall pay an annual  
2 registration fee of \$250 for each registered pesticide. The  
3 annual registration fee for each special local need label and  
4 experimental use permit shall be \$100. All registrations  
5 expire on December 31 of each year. Nothing in this section  
6 shall be construed as applying to distributors or retail  
7 dealers selling pesticides when such pesticides are registered  
8 by another person.

9 (3) The department shall adopt rules governing the  
10 procedures for pesticide registration and for the review of  
11 data submitted by an applicant for registration of a  
12 pesticide. The department shall determine whether a pesticide  
13 should be registered, registered with conditions, or tested  
14 under field conditions in this state. The department shall  
15 determine that all requests for pesticide registrations meet  
16 the requirements of current state and federal law. The  
17 department, whenever it deems it necessary in the  
18 administration of this part ~~chapter~~, may require the  
19 manufacturer or registrant to submit the complete formula,  
20 quantities shipped into or manufactured in the state for  
21 distribution and sale, evidence of the efficacy and the safety  
22 of any pesticide, and other relevant data. The department may  
23 review and evaluate a registered pesticide if new information  
24 is made available which indicates that use of the pesticide  
25 has caused an unreasonable adverse effect on public health or  
26 the environment. Such review shall be conducted upon the  
27 request of the secretary of the Department of Health in the  
28 event of an unreasonable adverse effect on public health or  
29 the secretary of the Department of Environmental Protection in  
30 the event of an unreasonable adverse effect on the  
31 environment. Such review may result in modifications,

1 revocation, cancellation, or suspension of a pesticide  
2 registration. The department, for reasons of adulteration,  
3 misbranding, or other good cause, may refuse or revoke the  
4 registration of any pesticide, after notice to the applicant  
5 or registrant giving the reason for the decision. The  
6 applicant may then request a hearing, pursuant to chapter 120,  
7 on the intention of the department to refuse or revoke  
8 registration, and, upon his or her failure to do so, the  
9 refusal or revocation shall become final without further  
10 procedure. In no event shall registration of a pesticide be  
11 construed as a defense for the commission of any offense  
12 prohibited under this part ~~chapter~~.

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

18 Section 14. Section 487.0435, Florida Statutes, is  
19 amended to read:

20 487.0435 License classification.--The department shall  
21 issue certified applicator licenses in the following  
22 classifications: certified public applicator; certified  
23 private applicator; and certified commercial applicator. In  
24 addition, separate classifications and subclassifications may  
25 be specified by the department in rule as deemed necessary to  
26 carry out the provisions of this part ~~chapter~~. Each  
27 classification shall be subject to requirements or testing  
28 procedures to be set forth by rule of the department and shall  
29 be restricted to the activities within the scope of the  
30 respective classification as established in statute or by  
31

1 rule. In specifying classifications, the department may  
2 consider, but is not limited to, the following:

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

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

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

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

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

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

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

16 487.045 Fees.--

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

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

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

30 487.046 Application; licensure.--

31



1           (2) If the department finds the applicant qualified in  
2 the classification for which the applicant has applied, and if  
3 the applicant applying for a license to engage in aerial  
4 application of pesticides has met all of the requirements of  
5 the Federal Aviation Agency and the Department of  
6 Transportation of this state to operate the equipment  
7 described in the application and has shown proof of liability  
8 insurance or posted a surety bond in an amount to be set forth  
9 by rule of the department, the department shall issue a  
10 certified applicator's license, limited to the classifications  
11 for which the applicant is qualified. The license shall expire  
12 as required by rules promulgated under this part ~~chapter~~,  
13 unless it has been revoked or suspended by the department  
14 prior to expiration, for cause as provided in this part  
15 ~~chapter~~. The license or authorization card issued by the  
16 department verifying licensure shall be kept on the person of  
17 the licensee while performing work as a licensed applicator.

18           Section 17. Section 487.047, Florida Statutes, is  
19 amended to read:

20           487.047 Nonresident license; reciprocal agreement;  
21 authorized purchase.--

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

27           (2) Any nonresident applying for a license under this  
28 part ~~chapter~~ to operate in the state shall file a Designation  
29 of Registered Agent naming the Secretary of State as the agent  
30 of the nonresident, upon whom process may be served in the  
31 event of any suit against the nonresident. The designation

1 shall be prepared on a form provided by the department and  
2 shall render effective the jurisdiction of the courts of this  
3 state over the nonresident applicant. However, any nonresident  
4 who has a duly appointed registered agent upon whom process  
5 may be served as provided by law shall not be required to  
6 designate the Secretary of State as registered agent. The  
7 Secretary of State shall be allowed the registered-agent fees  
8 as provided by law for designating registered agents. The  
9 department shall be furnished with a copy of the designation  
10 of the Secretary of State or of a registered agent which is  
11 certified by the Secretary of State. The Secretary of State  
12 shall notify the department of any service of process it  
13 receives as registered agent for persons licensed under this  
14 part ~~chapter~~.

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

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

25 487.049 Renewal; late fee; recertification.--

26 (1) The department shall require renewal of a  
27 certified applicator's license at 4-year intervals from the  
28 date of issuance. If the application for renewal of any  
29 license provided for in this part ~~chapter~~ is not filed on  
30 time, a late fee shall be assessed not to exceed \$50. However,  
31 the penalty shall not apply if the renewal application is

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

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

19 487.051 Administration; rules; procedure.--

20 (1) The department may by rule:

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

28 (2) The department is authorized to adopt by rule the  
29 primary standards established by the United States  
30 Environmental Protection Agency with respect to pesticides. If  
31 the provisions of this part ~~chapter~~ are preempted in part by

1 federal law, those provisions not preempted shall apply. This  
2 part ~~chapter~~ is intended as comprehensive and exclusive  
3 regulation of pesticides in this state. Except as provided in  
4 chapters 373, 376, 388, 403, and 482, or as otherwise provided  
5 by law, no agency, commission, department, county,  
6 municipality, or other political subdivision of the state may  
7 adopt laws, regulations, rules, or policies pertaining to  
8 pesticides, including their registration, packaging, labeling,  
9 distribution, sale, or use, except that local jurisdictions  
10 may adopt or enforce an ordinance pertaining to pesticides if  
11 that ordinance is in the area of occupational license taxes,  
12 building and zoning regulations, disposal or spillage of  
13 pesticides within a water well zone, or pesticide safety  
14 regulations relating to containment at the storage site.

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

17 487.0615 Pesticide Review Council.--

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

25 Section 21. Subsections (1), (2), (3), (4), and (6)  
26 and paragraphs (a) and (e) of subsection (7) of section  
27 487.071, Florida Statutes, are amended to read:

28 487.071 Enforcement, inspection, sampling, and  
29 analysis.--

30 (1) The department is authorized to enter upon any  
31 public or private premises or carrier where pesticides are

1 known or thought to be distributed, sold, offered for sale,  
2 held, stored, or applied, during regular business hours in the  
3 performance of its duties relating to pesticides and records  
4 pertaining to pesticides. No person shall deny or refuse  
5 access to the department when it seeks to enter upon any  
6 public or private premises or carrier during business hours in  
7 performance of its duties under this part ~~chapter~~.

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

17 (3) The official analysis shall be made from the  
18 official sample. A sealed and identified sample, herein called  
19 "official check sample" shall be kept until the analysis on  
20 the official sample is completed. However, the registrant may  
21 obtain upon request a portion of the official sample. Upon  
22 completion of the analysis of the official sample, a true copy  
23 of the certificate of analysis shall be mailed to the  
24 registrant of the pesticide from whom the official sample was  
25 taken and also to the dealer or agent, if any, and consumer,  
26 if known. If the official analysis conforms with the  
27 provisions of this part ~~chapter~~, the official check sample may  
28 be destroyed. If the official analysis does not conform with  
29 the provisions of this part ~~chapter~~, the rules adopted under  
30 this part ~~chapter~~, and the provisions of the pesticide label  
31 or labeling, the official check sample shall be retained for a

1 period of 90 days from the date of the certificate of analysis  
2 of the official sample. If within that time the registrant of  
3 the pesticide from whom the official sample was taken makes  
4 demand for analysis by a referee chemist, a portion of the  
5 official check sample sufficient for analysis shall be sent to  
6 a referee chemist who is mutually acceptable to the department  
7 and the registrant for analysis at the expense of the  
8 registrant. Upon completion of the analysis, the referee  
9 chemist shall forward to the department and to the registrant  
10 a certificate of analysis bearing a proper identification mark  
11 or number; and such certificate of analysis shall be verified  
12 by an affidavit of the person or laboratory making the  
13 analysis. If the certificate of analysis checks within 3  
14 percent of the department's analysis on each active ingredient  
15 for which analysis was made, the mean average of the two  
16 analyses shall be accepted as final and binding on all  
17 concerned. However, if the referee's certificate of analysis  
18 shows a variation of greater than 3 percent from the  
19 department's analysis in any one or more of the active  
20 ingredients for which an analysis was made, upon demand of  
21 either the department or the registrant from whom the official  
22 sample was taken, a portion of the official check sample  
23 sufficient for analysis shall be submitted to a second referee  
24 chemist who is mutually acceptable to the department and the  
25 registrant, at the expense of the party or parties requesting  
26 the referee analysis. Upon completion of the analysis, the  
27 second referee chemist shall make a certificate and report as  
28 provided in this subsection for the first referee chemist. The  
29 mean average of the two analyses nearest in conformity shall  
30 be accepted as final and binding on all concerned. If no  
31 demand is made for an analysis by a second referee chemist,

1 the department's certificate of analysis shall be accepted as  
2 final and binding on all concerned.

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

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

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

27 (e) In addition to any other penalty provided by this  
28 part ~~chapter~~, the registrant of any pesticide found to be  
29 adulterated, misbranded, or otherwise deficient shall  
30 reimburse the person requesting the pesticide analysis under  
31

1 this subsection for all fees assessed by and paid to the  
2 department.

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

5 487.081 Exemptions.--

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

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

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

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

21 487.091 Tolerances, deficiencies, and penalties.--

22 (2) If a pesticide is found by analysis to be  
23 deficient in an active ingredient beyond the tolerance as  
24 provided in this part ~~chapter~~, the registrant is subject to a  
25 penalty for the deficiency, not to exceed \$10,000 per  
26 violation. However, no penalty shall be assessed when the  
27 official sample was taken from a pesticide that was in the  
28 possession of a consumer for more than 45 days from the date  
29 of purchase by that consumer, or when the product label  
30 specifies that the product should be used by an expiration  
31 date that has passed. Procedures for assessing penalties shall



1 be established by rule, based on the degree of the deficiency.  
2 Penalties assessed shall be paid to the consumer or, in the  
3 absence of a known consumer, the department. If the penalty is  
4 not paid within the prescribed period of time as established  
5 by rule, the department may deny, suspend, or revoke the  
6 registration of any pesticide.

7 Section 24. Section 487.101, Florida Statutes, is  
8 amended to read:

9 487.101 Stop-sale, stop-use, removal, or hold  
10 orders.--

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

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

29 (3) The department shall release the pesticide or  
30 device under a stop-sale, stop-use, removal, or hold order

31

1 when the owner or custodian complies with the provisions of  
2 this part ~~chapter~~.

3 (4) The owner or custodian, with authorization and  
4 supervision of the department, may relabel the pesticide or  
5 device so that the label will conform to the product, or  
6 transfer and return the product to the manufacturer or  
7 supplier for the purpose of bringing the product in compliance  
8 with the provisions of this part ~~chapter~~.

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

11 487.111 Seizure, condemnation, and sale.--

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

24 Section 26. Section 487.13, Florida Statutes, is  
25 amended to read:

26 487.13 Cooperation.--The department is authorized and  
27 empowered to cooperate with and enter into agreements with any  
28 other agency of this state, the United States Department of  
29 Agriculture, the United States Environmental Protection  
30 Agency, and any other state or federal agency for the purpose  
31

1 of carrying out the provisions of this part ~~chapter~~ and  
2 securing uniformity of regulations.

3 Section 27. Section 487.156, Florida Statutes, is  
4 amended to read:

5 487.156 Governmental agencies.--All governmental  
6 agencies shall be subject to the provisions of this part  
7 ~~chapter~~ and rules adopted under this part ~~chapter~~. Public  
8 applicators using or supervising the use of restricted-use  
9 pesticides shall be subject to examination as provided in s.  
10 487.044.

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

13 487.159 Damage or injury to property, animal, or  
14 person; mandatory report of damage or injury; time for filing;  
15 failure to file.--

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

1 be filed in a court of law, and the failure to file the  
2 statement shall not be considered any bar to the maintenance  
3 of any criminal or civil action.

4 Section 29. Section 487.161, Florida Statutes, is  
5 amended to read:

6 487.161 Exemptions, nonagricultural pest control and  
7 research.--

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

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

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

21 Section 30. Section 487.163, Florida Statutes, is  
22 amended to read:

23 487.163 Information; interagency cooperation.--

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

29 (2) The department may cooperate or enter into formal  
30 agreements with any other agency or educational institution of  
31 this state or its subdivisions or with any agency of any other

1 state or of the Federal Government for the purpose of carrying  
2 out the provisions of this part ~~chapter~~ and of securing  
3 uniformity of regulations.

4 Section 31. Subsections (1), (2), and (3) of section  
5 487.171, Florida Statutes, are amended to read:

6 487.171 Classification of antifouling paint containing  
7 organotin compounds as restricted-use pesticides; prohibition  
8 of distribution and sale.--

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

17 (2) The department shall initiate action under chapter  
18 120, to deny or cancel the registration of antifouling paints  
19 containing organotin compounds which do not have an acceptable  
20 release rate or do not meet other criteria established by the  
21 department in accordance with this part ~~chapter~~.

22 (3) Distribution, sale, and use of antifouling paints  
23 containing organotin compounds with acceptable release rates  
24 shall be limited to dealers and applicators licensed by the  
25 department in accordance with this part ~~chapter~~, to  
26 distribute, sell, or use restricted-use pesticides. Such paint  
27 may be applied only by licensed applicators and may be applied  
28 only to vessels which exceed 25 meters in length or which have  
29 aluminum hulls.

30 Section 32. Section 487.175, Florida Statutes, is  
31 amended to read:

1           487.175 Penalties; administrative fine; injunction.--  
2           (1) In addition to any other penalty provided in this  
3 part ~~chapter~~, when the department finds any person, applicant,  
4 or licensee has violated any provision of this part ~~chapter~~ or  
5 rule adopted under this part ~~chapter~~, it may enter an order  
6 imposing any one or more of the following penalties:  
7           (a) Denial of an application for licensure.  
8           (b) Revocation or suspension of a license.  
9           (c) Issuance of a warning letter.  
10           (d) Placement of the licensee on probation for a  
11 specified period of time and subject to conditions the  
12 department may specify by rule, including requiring the  
13 licensee to attend continuing education courses, to  
14 demonstrate competency through a written or practical  
15 examination, or to work under the direct supervision of  
16 another licensee.  
17           (e) Imposition of an administrative fine not to exceed  
18 \$10,000 for each violation. When imposing any fine under this  
19 paragraph, the department shall consider the degree and extent  
20 of harm caused by the violation, the cost of rectifying the  
21 damage, the amount of money the violator benefited from by  
22 noncompliance, whether the violation was committed willfully,  
23 and the compliance record of the violator.  
24           (2) Any person who violates any provision of this part  
25 ~~chapter~~ or rules adopted pursuant thereto commits a  
26 misdemeanor of the second degree and upon conviction is  
27 punishable as provided in sections 775.082 and 775.083. For a  
28 subsequent violation, such person commits a misdemeanor of the  
29 first degree and upon conviction is punishable as provided in  
30 sections 775.082 and 775.083.  
31

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

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

17           403.088 Water pollution operation permits;  
18 conditions.--

19           (1) No person, without written authorization of the  
20 department, shall discharge into waters within the state any  
21 waste which, by itself or in combination with the wastes of  
22 other sources, reduces the quality of the receiving waters  
23 below the classification established for them. However, this  
24 section shall not be deemed to prohibit the application of  
25 pesticides to waters in the state for the control of insects,  
26 aquatic weeds, or algae, provided the application is performed  
27 pursuant to a program approved by the Department of Health, in  
28 the case of insect control, or the department, in the case of  
29 aquatic weed or algae control. The department is directed to  
30 enter into interagency agreements to establish the procedures  
31 for program approval. Such agreements shall provide for public

1 health, welfare, and safety, as well as environmental factors.  
2 Approved programs must provide that only chemicals approved  
3 for the particular use by the United States Environmental  
4 Protection Agency or by the Department of Agriculture and  
5 Consumer Services may be employed and that they be applied in  
6 accordance with registered label instructions, state standards  
7 for such application, and the provisions of the Florida  
8 Pesticide Law, part I of chapter 487.

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

11 482.242 Preemption.--

12 (1) This chapter is intended as comprehensive and  
13 exclusive regulation of pest control in this state. The  
14 provisions of this chapter preempt to the state all regulation  
15 of the activities and operations of pest control services,  
16 including the pesticides used pursuant to labeling and  
17 registration approved under part I of chapter 487. No local  
18 government or political subdivision of the state may enact or  
19 enforce an ordinance that regulates pest control, except that  
20 the preemption in this section does not prohibit a local  
21 government or political subdivision from enacting an ordinance  
22 regarding any of the following:

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

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



1           (c) Regulations that:  
2           1. Require, for multicomplex dwellings in excess of 10  
3 units, annual termite inspections for termite activity or  
4 damage, including Formosan termites, which must be performed  
5 by a person licensed under this chapter.  
6           2. Require pest control treatments of structures that  
7 have termite activity or damage which must be performed by a  
8 person licensed under this chapter.  
9           3. Require property owners or other persons to obtain  
10 inspections or pest control treatments performed by a person  
11 licensed under this chapter.  
12  
13 An ordinance by a local government or political subdivision  
14 which requires an annual inspection or pest control treatment  
15 must conform to current law.  
16           (d) Protection of wellhead protection areas and high  
17 recharge areas.  
18           (e) Hazardous materials reporting as set forth in part  
19 II of chapter 252, storage, and containment including as  
20 relating to stormwater management.  
21           (f) Hazardous material unlawful discharge and  
22 disposal.  
23           (g) Hazardous materials remediation.  
24           Section 35. Paragraph (x) of subsection (1) of section  
25 500.03, Florida Statutes, is amended to read:  
26           500.03 Definitions; construction; applicability.--  
27           (1) For the purpose of this chapter, the term:  
28           (x) "Pesticide chemical" means any substance which,  
29 alone, in chemical combination, or in formulation with one or  
30 more other substances is a "pesticide" within the meaning of  
31 the Florida Pesticide Law, part I of chapter 487, and which is

1 used in the production, storage, or transportation of raw  
2 agricultural commodities.

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

5 570.44 Division of Agricultural Environmental  
6 Services; powers and duties.--The duties of the Division of  
7 Agricultural Environmental Services include, but are not  
8 limited to:

9 (1) Inspecting and drawing samples of: commercial  
10 feeds offered for sale in this state and enforcing those  
11 provisions of chapter 580 authorized by the department; seeds  
12 offered for sale in this state and enforcing those provisions  
13 of chapter 578 authorized by the department; certified seed  
14 grown in this state; fertilizers offered for sale in this  
15 state and enforcing those provisions of chapter 576 authorized  
16 by the department; and pesticides offered for sale in this  
17 state, and soil and water in this state for the presence of  
18 pesticides, and enforcing those provisions of part I of  
19 chapter 487 authorized by the department.

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

24 Section 37. In editing manuscript for the next edition  
25 of the official Florida Statutes, the Division of Statutory  
26 Revision shall designate sections 487.011-487.175, Florida  
27 Statutes, as part I of that chapter, the "Florida Pesticide  
28 Law," and sections 487.2011-487.2071, Florida Statutes, as  
29 created by this act, as part II of that chapter, the "Florida  
30 Agricultural Worker Safety Act."

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