

By Senator Alexander

17-1775B-04

1                                   A bill to be entitled  
2           An act relating to migrant labor; amending s.  
3           450.191, F.S.; authorizing the Executive Office  
4           of the Governor to advise and consult  
5           concerning improvements in the working  
6           conditions of migrant workers; authorizing the  
7           Executive Office of the Governor to provide  
8           coordination for farm labor registration,  
9           cooperate with the Department of Business and  
10          Professional Regulation on enforcing labor  
11          laws, and cooperate with the Agency for  
12          Workforce Innovation in recruiting migrant  
13          laborers; amending s. 450.201, F.S.; requiring  
14          the Legislative Commission on Migrant Labor to  
15          make appointments and hold its first meeting;  
16          amending s. 450.211, F.S.; revising the  
17          membership of the commission; amending s.  
18          450.231, F.S.; specifying when the commission  
19          must report to the Legislature; amending s.  
20          450.27, F.S.; renaming part III of ch. 450,  
21          F.S.; amending s. 450.271, F.S.; substituting  
22          the Department of Business and Professional  
23          Regulation for the Department of Labor and  
24          Employment Security as the entity authorized to  
25          administer the federal Migrant and Seasonal  
26          Agricultural Worker Protection Act; amending s.  
27          450.28, F.S.; defining major and minor  
28          violations; amending s. 450.30, F.S.; requiring  
29          an applicant for renewal of a certificate of  
30          registration as a farm labor contractor to  
31          retake the competency examination when

1 convicted of or penalized for committing a  
2 major violation within a specified time;  
3 depositing certain fees received from  
4 applicants for a certificate of registration  
5 into the Professional Regulation Trust Fund;  
6 amending s. 450.31, F.S.; increasing the  
7 application fee for a certificate of  
8 registration; revising payment requirements;  
9 requiring an applicant for a certificate of  
10 registration to designate an agent to receive  
11 service of process and documents; authorizing  
12 the department to revoke, suspend, or deny a  
13 certificate of registration under certain  
14 circumstances; providing that receipt of a  
15 certification of registration constitutes  
16 permission by the farm labor contractor for  
17 department personnel to inspect certain  
18 documents; creating s. 450.321, F.S.;  
19 authorizing the department to develop and  
20 implement a best practices incentive program  
21 for farm labor contractors; authorizing the  
22 department to enter a partnership agreement  
23 with a contractor regarding such designation;  
24 authorizing use of the designation to solicit  
25 business; authorizing revocation of designation  
26 and requiring cessation of use; prohibiting  
27 characterization of the designation as an  
28 endorsement by the department; exempting the  
29 department from civil liability; authorizing  
30 the department to establish an incentive  
31 program for contractors holding a valid

1 designation; amending s. 450.33, F.S.; revising  
2 the powers of the department regarding  
3 revocation of a contractor's certificate of  
4 registration; adding maintenance of certain  
5 employee field records to the duties a  
6 contractor must perform; amending s. 450.34,  
7 F.S.; prohibiting a contractor from taking  
8 retaliatory action and from contracting with or  
9 employing certain persons who lack a valid  
10 certificate; amending s. 450.35, F.S.;  
11 prohibiting a person from contracting with or  
12 employing a farm labor contractor without a  
13 certificate of registration; providing  
14 penalties; amending s. 450.37, F.S.;  
15 authorizing the department to cooperate and  
16 enter into agreements with other state  
17 agencies; amending s. 450.38, F.S.; revising  
18 the penalties imposed for violations of part  
19 III of ch. 450, F.S.; clarifying applicability  
20 of penalties to a firm, association, or  
21 corporation; increasing the maximum civil  
22 penalty; authorizing civil penalties or the  
23 revocation of registration if a contractor  
24 commits one or more minor violations; creating  
25 s. 450.39, F.S.; prohibiting a farm labor  
26 contractor from requiring a farmworker to make  
27 certain purchases; prohibiting a contractor  
28 from charging a farmworker more than the  
29 reasonable cost for a commodity; providing  
30 penalties; amending s. 381.0087, F.S.;  
31 clarifying that a person who willfully refuses

1 a citation commits a second-degree misdemeanor;  
2 requiring the Department of Health to notify  
3 the enforcing entity of suspected violations;  
4 amending s. 381.008, F.S.; defining the term  
5 "residential migrant housing" to include  
6 structures rented or reserved for occupancy by  
7 seasonal workers; excluding from that  
8 definition a single-family residence or mobile  
9 home that is occupied only by a single family;  
10 amending s. 381.0086, F.S.; requiring the  
11 Department of Health to include certain  
12 provisions relative to plan review of  
13 residential migrant housing in rules;  
14 prohibiting a structural variance for the  
15 purpose of filing an interstate clearance order  
16 with the Agency for Workforce Innovation;  
17 amending ss. 487.011, 487.012, 487.021,  
18 487.025, 487.031, 487.041, 487.0435, 487.045,  
19 487.046, 487.047, 487.049, 487.051, 487.0615,  
20 487.071, 487.081, 487.091, 487.101, 487.111,  
21 487.13, 487.156, 487.159, 487.161, 487.163,  
22 487.171, 487.175, 403.088, 482.242, 500.03, and  
23 570.44, F.S.; changing the term "chapter" to  
24 "part" to conform to changes made by the act;  
25 creating part II of ch. 487, F.S.; providing a  
26 short title; providing for administration by  
27 the Department of Agriculture and Consumer  
28 Services; declaring legislative intent;  
29 defining terms; requiring the department to  
30 continue to operate under specified federal  
31 worker protection regulations; providing for

1 application unless exempted by federal law;  
2 requiring an agricultural employer to make  
3 pesticide information available to an  
4 agricultural worker; authorizing requests by  
5 the worker, a designated representative, or  
6 medical personnel treating the worker;  
7 requiring the manufacturer of an agricultural  
8 pesticide to prepare a material safety data  
9 sheet; requiring provision of the data sheet to  
10 each direct purchaser; requiring the department  
11 to produce and make available a general  
12 agricultural pesticide safety sheet;  
13 prohibiting an agricultural employer from  
14 failing to provide required pesticide  
15 information or taking retaliatory action;  
16 providing penalties for an agricultural  
17 employer who violates part II of ch. 487, F.S.;  
18 requiring a worker who seeks relief for  
19 retaliatory action to file a complaint with the  
20 department; requiring that the department  
21 monitor complaints of retaliation and report  
22 findings to the President of the Senate and the  
23 Speaker of the House of Representatives;  
24 requesting the Division of Statutory Revision  
25 to designate parts I and II of ch. 487, F.S.;

26

providing an effective date.

27

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

29

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

1           450.191 Executive Office of the Governor; powers and  
2 duties.--

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

5           (a) Advise and consult with employers of migrant  
6 workers as to the ways and means of improving living and  
7 working conditions of migrant ~~seasonal~~ workers;

8           (b) Cooperate with the Department of Health in  
9 establishing minimum standards of preventive and curative  
10 health and of housing and sanitation in migrant labor camps  
11 and in making surveys to determine the adequacy of preventive  
12 and curative health services available to occupants of migrant  
13 labor camps;

14           (c) Provide coordination for the enforcement of ss.  
15 381.008-381.0088 and ss. 450.27-450.38;

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

22           (e) Cooperate with the Department of Education to  
23 provide educational facilities for the children of migrant  
24 laborers;

25           (f) Cooperate with the Department of Highway Safety  
26 and Motor Vehicles to establish minimum standards for the  
27 transporting of migrant laborers;

28           (g) Cooperate with the Department of Agriculture and  
29 Consumer Services to conduct an education program for  
30 employers of migrant laborers pertaining to the standards,  
31 methods, and objectives of the office;

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

4 (i) Coordinate all federal, state, and local programs  
5 pertaining to migrant laborers;

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

11 Section 2. Section 450.201, Florida Statutes, is  
12 amended to read:

13 450.201 Legislative Commission on Migrant Labor;  
14 membership; filling vacancies.--

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

29 (2) Initial appointments must be made no later than  
30 March 1, 2005.

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1           (3) The commission shall hold its first meeting no  
2 later than July 1, 2005.

3           Section 3. Section 450.211, Florida Statutes, is  
4 amended to read:

5           450.211 Advisory committee; membership.--The  
6 Legislative Commission on Migrant Labor is authorized and  
7 directed to establish an advisory committee, which shall  
8 contain the following membership:

9           (1) One member representing the Department of  
10 Community Affairs;

11           (2) One member representing the Department of Health;

12           (3) One member representing the Department of  
13 Agriculture and Consumer Services;

14           (4) One member representing the Department of  
15 Education;

16           (5) One member representing the Florida Farm Bureau  
17 Federation;

18           ~~(6) One member representing the Florida State~~  
19 ~~Federated Labor Council;~~

20           (6)(7) One member representing the Florida Fruit and  
21 Vegetable Association;

22           (7)(8) One member representing the Florida Citrus  
23 Mutual Citrus Industrial Council;

24           (8)(9) One member representing the Executive Office of  
25 the Governor Florida Sugar Cane League;

26           (9)(10) Two members representing farm workers;

27           (10) One member representing a nonprofit entity that  
28 provides social services for migrant workers;

29           (11) One member representing migrant nonprofit housing  
30 interests;

31



1           (12) One member representing the Department of  
2 Business and Professional Regulation;

3           (13) One member representing the Agency for Workforce  
4 Innovation; and

5           (14) One member representing the Department of  
6 Children and Family Services.~~Not fewer than two or more than~~  
7 ~~four other persons selected and appointed by the commission.~~

8           Section 4. Section 450.231, Florida Statutes, is  
9 amended to read:

10           450.231 Annual reports to Legislature.--The commission  
11 shall report its findings, recommendations, and proposed  
12 legislation to each regular session of the Legislature no  
13 later than February 1 of each year, beginning in 2006.

14           Section 5. Section 450.27, Florida Statutes, is  
15 amended to read:

16           450.27 Short title.--This part may be cited as the  
17 "Farm Labor Contractor Registration Law."

18           Section 6. Section 450.271, Florida Statutes, is  
19 amended to read:

20           450.271 State administration of the Migrant and  
21 Seasonal Agricultural Worker Protection Act.--The Department  
22 of Business and Professional Regulation ~~Labor and Employment~~  
23 ~~Security~~ may enter into agreements with the Secretary of Labor  
24 of the United States to authorize the department to administer  
25 within the State of Florida the provisions of the Migrant and  
26 Seasonal Agricultural Worker Protection Act of 1983, as  
27 amended.

28           Section 7. Subsections (5) and (6) are added to  
29 section 450.28, Florida Statutes, to read:

30           450.28 Definitions.--

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1           (5) "Minor violation" means a violation of a specific  
2 statute or rule which does not present an imminent threat to  
3 the health or welfare of an employee of a farm labor  
4 contractor.

5           (6) "Major violation" means a violation of a specific  
6 state or federal statute or rule which presents an imminent  
7 threat to the health, safety, or welfare of an employee of a  
8 farm labor contractor.

9           Section 8. Subsections (6) and (7) of section 450.30,  
10 Florida Statutes, are amended to read:

11           450.30 Requirement of certificate of registration;  
12 education and examination program.--

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

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

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

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

27           Section 9. Subsections (1) and (2) of section 450.31,  
28 Florida Statutes, are amended and subsections (5) and (6) are  
29 added to that section, to read:

30           450.31 Issuance, revocation, and suspension of, and  
31 refusal to issue or renew, certificate of registration.--

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

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

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

11           (c) Such person pays to the department, by cashier's  
12 check ~~in cash~~, certified check, or money order, a  
13 nonrefundable application fee of ~~\$275~~\$75. Fees collected by  
14 the department under this subsection shall be deposited in the  
15 State Treasury into the Professional Regulation Crew Chief  
16 Registration Trust Fund, ~~which is hereby created~~, and shall be  
17 used ~~utilized~~ for administration of this part.

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

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

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

28           (a) Violated or failed to comply with any provision of  
29 this part or the rules adopted pursuant to this part; ~~s.~~  
30 ~~450.36.~~

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

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

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

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

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

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

15           (5) The department may permanently revoke or refuse to  
16 issue or renew a certificate of registration if the applicant  
17 or certificate holder has been convicted within the preceding  
18 5 years of:

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

20           1. Relating to gambling or the sale, distribution, or  
21 possession of alcoholic beverages; and

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

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

30           (6) Receipt and acceptance of a certificate of  
31 registration as a farm labor contractor constitutes

1 unconditional permission and acquiescence by the contractor to  
2 the inspection by department personnel of books, ledgers, and  
3 all other documents related to the performance of the  
4 contractor's farm labor activities.

5 Section 10. Section 450.321, Florida Statutes, is  
6 created to read:

7 450.321 Best practices incentive program for farm  
8 labor contractors.--

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

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

19 (3) The department may enter into a partnership  
20 agreement with a farm labor contractor which states the  
21 responsibilities of each party to the agreement regarding the  
22 requirements to receive and maintain a best practices  
23 designation. Recipients of a designation as a best practices  
24 farm labor contractor may use the designation when soliciting  
25 business as long as the designation remains in effect.

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

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1 practices farm labor contractor designation when soliciting  
2 business.

3 (5) The grant of a designation as a best practices  
4 employer is not an endorsement of the recipient by the  
5 department, and may not be characterized as such an  
6 endorsement.

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

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

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

17 450.33 Duties of farm labor contractor.--Every farm  
18 labor contractor must:

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

27 ~~(a) A court or agency of competent jurisdiction~~  
28 ~~renders a judgment or other final decision that a violation of~~  
29 ~~one of the laws, rules, or regulations has occurred and, if~~  
30 ~~invoked, the appellate process is exhausted;~~

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

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

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

14           Section 12. Subsections (4) and (5) are added to  
15 section 450.34, Florida Statutes, to read:

16           450.34 Prohibited acts of farm labor contractor.--A  
17 licensee may not:

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

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

25           Section 13. Section 450.35, Florida Statutes, is  
26 amended to read:

27           450.35 Certain contracts prohibited.--It is unlawful  
28 for any person to contract with or employ ~~for the employment~~  
29 ~~of farm workers~~ with any farm labor contractor as defined in  
30 this act, for matters relating to farm labor, until the labor  
31 contractor displays to him or her a current certificate of

1 registration issued by the department pursuant to the  
2 requirements of this part. A violation of this section is  
3 subject to the penalties provided for violations in s. 450.38.

4 Section 14. Section 450.37, Florida Statutes, is  
5 amended to read:

6 450.37 Cooperation with state and federal  
7 agencies.--The department shall, whenever appropriate,  
8 cooperate with any federal agency. The department may  
9 cooperate with and enter into agreements with any other state  
10 agency to administer this chapter or secure uniform rules.

11 Section 15. Section 450.38, Florida Statutes, is  
12 amended to read:

13 450.38 Enforcement of farm labor contractor laws.--

14 (1) Any person, firm, association, or corporation that  
15 commits a minor violation not excluded under s. 450.29 who  
16 violates any provision of this part commits a misdemeanor of  
17 the second degree, punishable as provided in s. 775.082 or s.  
18 775.083.

19 (2) Any person, firm, association, or corporation that  
20 commits a major violation of this part commits a felony of the  
21 third degree, punishable as provided in s. 775.082, s.  
22 775.083, or s. 775.084.

23 (3)~~(2)~~ Any person, firm, association, or corporation  
24 that who, on or after June 19, 1985, commits a violation of  
25 this part or of any rule adopted thereunder may be assessed a  
26 civil penalty of not more than \$2,500~~\$1,000~~ for each such  
27 violation. Such assessed penalties shall be paid by cashier's  
28 check in cash, certified check, or money order and shall be  
29 deposited into the General Revenue Fund. The department shall  
30 not institute or maintain any administrative proceeding to  
31 assess a civil penalty under this subsection when the



1 violation is the subject of a criminal indictment or  
2 information under this section which results in a criminal  
3 penalty being imposed, or of a criminal, civil, or  
4 administrative proceeding by the United States government or  
5 an agency thereof which results in a criminal or civil penalty  
6 being imposed. The department may adopt rules prescribing the  
7 criteria to be used to determine the amount of the civil  
8 penalty and to provide notification to persons assessed a  
9 civil penalty under this section.

10 (4)~~(3)~~ Upon a complaint of the department being filed  
11 in the circuit court of the county in which the farm labor  
12 contractor resides or may be doing business, any farm labor  
13 contractor who fails to obtain a certificate of registration  
14 as required by this part may, in addition to such penalties,  
15 be enjoined from engaging in any activity which requires the  
16 farm labor contractor to possess a certificate of  
17 registration.

18 (5)~~(4)~~ For the purpose of any investigation or  
19 proceeding conducted by the department, the secretary of the  
20 department or the secretary's designee shall have the power to  
21 administer oaths, take depositions, make inspections when  
22 authorized by statute, issue subpoenas which shall be  
23 supported by affidavit, serve subpoenas and other process, and  
24 compel the attendance of witnesses and the production of  
25 books, papers, documents, and other evidence. The secretary of  
26 the department or the secretary's designee shall exercise this  
27 power on the secretary's own initiative.

28 (6) A farm labor contractor who commits a major  
29 violation of this part shall be issued a warning for the first  
30 violation. A civil penalty in increments of at least \$250 may  
31 be assessed for each successive violation of a specific

1 statute or rule of this part within a 2-year period from the  
2 date of the first violation, to a maximum of \$2,500. The  
3 department may revoke the certificate of registration for a  
4 farm labor contractor who commits an additional minor  
5 violation after reaching the \$2,500 maximum amount of a  
6 cumulative fine authorized in this subsection.

7 (7) A farm labor contractor who commits a major  
8 violation of a specific statute or rule may be assessed a  
9 civil penalty of at least \$750 for the first violation. A  
10 contractor that commits another major violation of a specific  
11 statute or rule within 2 years after the first violation may  
12 be assessed at least \$1,500 for the second violation, and no  
13 more than \$2,500 for the third violation. The department may  
14 revoke the certificate of registration of a farm labor  
15 contractor who commits a major violation of a specific statute  
16 or rule four times within 2 years.

17 Section 16. Section 450.39, Florida Statutes, is  
18 created to read:

19 450.39 Prohibition against required purchase;  
20 prohibition against excessive charges; penalty.--

21 (1) A farm labor contractor may not require that a  
22 farmworker purchase goods or services solely from that farm  
23 labor contractor or from a person acting as an agent for that  
24 farm labor contractor. A farm labor contractor who violates  
25 this subsection commits a felony of the third degree,  
26 punishable as provided in s. 775.082, s. 775.083, or s.  
27 775.084.

28 (2) A farm labor contractor who supplies a farmworker  
29 with a commodity, including housing, food, water, or other  
30 consumables, may not charge the farmworker more than the  
31 reasonable cost of the commodity in accordance with 29 C.F.R.

1 s. 531.3. As used in this subsection, the term "reasonable  
2 cost" excludes profit to the farm labor contractor. A farm  
3 labor contractor found to have violated this subsection is  
4 subject to penalties as provided in s. 450.38(2).

5 Section 17. Subsections (1) and (6) of section  
6 381.0087, Florida Statutes, are amended, and subsection (9) is  
7 added to that section, to read:

8 381.0087 Enforcement; citations.--

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

24 (6) Any person who willfully refuses to sign and  
25 accept a citation issued by the department commits ~~or the~~  
26 ~~Department of Labor and Employment Security is guilty of a~~  
27 misdemeanor of the second degree, punishable as provided in s.  
28 775.082 or s. 775.083.

29 (9) When the department suspects that a law has been  
30 violated it shall notify the entity that enforces that law.  
31

1           Section 18. Subsection (8) of section 381.008, Florida  
2 Statutes, is amended to read:

3           381.008 Definitions of terms used in ss.  
4 381.008-381.00897.--As used in ss. 381.008-381.00897, the  
5 following words and phrases mean:

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

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

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

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

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

23           Section 19. Subsections (1) and (2) of section  
24 381.0086, Florida Statutes, are amended, and subsection (6) is  
25 added to that section, to read:

26           381.0086 Rules; variances; penalties.--

27           (1) The department shall adopt rules necessary to  
28 protect the health and safety of migrant farm workers and  
29 other migrant labor camp or residential migrant housing  
30 occupants, including rules governing field sanitation  
31 facilities. These rules must include definitions of terms,

1 provisions relating to plan review of the construction of new,  
2 expanded, or remodeled camps or residential migrant housing,  
3 sites, buildings and structures, personal hygiene facilities,  
4 lighting, sewage disposal, safety, minimum living space per  
5 occupant, bedding, food equipment, food storage and  
6 preparation, insect and rodent control, garbage, heating  
7 equipment, water supply, maintenance and operation of the  
8 camp, housing, or roads, and such other matters as the  
9 department finds to be appropriate or necessary to protect the  
10 life and health of the occupants. Housing operated by a public  
11 housing authority is exempt from the provisions of any  
12 administrative rule that conflicts with or is more stringent  
13 than the federal standards applicable to the housing.

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

19 (a) Clearly specify the standard from which the  
20 variance is desired;

21 (b) Provide adequate justification that the variance  
22 is necessary to obtain a beneficial use of an existing  
23 facility and to prevent a practical difficulty or unnecessary  
24 hardship; and

25 (c) Clearly set forth the specific alternative  
26 measures that the owner or operator has taken to protect the  
27 health and safety of occupants and adequately show that the  
28 alternative measures have achieved the same result as the  
29 standard from which the variance is sought.

30 (6) For the purpose of filing an interstate clearance  
31 order with the Agency for Workforce Innovation, if the housing

1 is covered by 20 C.F.R., part 654, subpart E, the structural  
2 variance referred to in subsection (2) is prohibited.

3 Section 20. Section 487.011, Florida Statutes, is  
4 amended to read:

5 487.011 Short title; administration.--This part  
6 ~~chapter~~ may be cited as the "Florida Pesticide Law" and shall  
7 be administered by the Department of Agriculture and Consumer  
8 Services.

9 Section 21. Section 487.012, Florida Statutes, is  
10 amended to read:

11 487.012 Declaration of purpose.--The purpose of this  
12 part ~~chapter~~ is to regulate the distribution, sale, and use of  
13 pesticides, except as provided in chapters 388 and 482, and to  
14 protect people and the environment from the adverse effects of  
15 pesticides.

16 Section 22. Subsections (31), (45), and (57) of  
17 section 487.021, Florida Statutes, are amended to read:

18 487.021 Definitions.--For the purpose of this chapter:

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

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

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

28 Section 23. Subsection (2) of section 487.025, Florida  
29 Statutes, is amended to read:

30 487.025 Misbranding.--

31 (2) A pesticide is misbranded if:

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

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

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

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

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

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

26 (g) It is injurious to living humans or other  
27 vertebrate animals or vegetation, except weeds, to which it is  
28 applied, or to the person applying such pesticide as directed  
29 or in accordance with commonly recognized practice.

30 (h) In the case of a plant regulator, defoliant, or  
31 desiccant, when used as directed, it is injurious to living

1 humans or other vertebrate animals, or vegetation, to which it  
2 is applied, or to the person applying such pesticide.  
3 However, physical or physiological effects on plants or parts  
4 thereof shall not be deemed to be injury when this is the  
5 purpose for which the plant regulator, defoliant, or desiccant  
6 was applied in accordance with the label claims and  
7 recommendations.

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

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

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

18 Section 24. Subsections (2), (4), (5), and (13) of  
19 section 487.031, are amended to read:

20 487.031 Prohibited acts.--It is unlawful:

21 (2) To distribute, sell, or offer for sale within this  
22 state any pesticide or product which has not been registered  
23 pursuant to the provisions of this part ~~chapter~~, except  
24 pesticides distributed, sold, offered for sale, or used in  
25 accordance with the provisions of federal or state  
26 restriction, supervision, or cancellation orders or other  
27 existing stock agreements.

28 (4) To detach, alter, deface, or destroy, in whole or  
29 in part, any label or labeling provided for in this part  
30 ~~chapter~~ or rules promulgated under this part ~~chapter~~, or to  
31 add any substance to, or take any substance from, any



1 pesticide in a manner that may defeat the purpose of this part  
2 ~~chapter~~.

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

12 (13) For any person to:

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

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

22 (c) Operate faulty or unsafe equipment;

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

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

28 (f) Fail to disclose to an agricultural crop grower,  
29 prior to the time pesticides are applied to a crop, full  
30 information regarding the possible harmful effects to human  
31

1 beings or animals and the earliest safe time for workers or  
2 animals to reenter the treated field;

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

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

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

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

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

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

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

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

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

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

31

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

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

10           Section 25. Subsections (2), (3), and (8) of section  
11 487.041, Florida Statutes, are amended to read:

12           487.041 Registration.--

13           (2) For the purpose of defraying expenses of the  
14 department in connection with carrying out the provisions of  
15 this part chapter, each person shall pay an annual  
16 registration fee of \$250 for each registered pesticide. The  
17 annual registration fee for each special local need label and  
18 experimental use permit shall be \$100. All registrations  
19 expire on December 31 of each year. Nothing in this section  
20 shall be construed as applying to distributors or retail  
21 dealers selling pesticides when such pesticides are registered  
22 by another person.

23           (3) The department shall adopt rules governing the  
24 procedures for pesticide registration and for the review of  
25 data submitted by an applicant for registration of a  
26 pesticide. The department shall determine whether a pesticide  
27 should be registered, registered with conditions, or tested  
28 under field conditions in this state. The department shall  
29 determine that all requests for pesticide registrations meet  
30 the requirements of current state and federal law. The  
31 department, whenever it deems it necessary in the

1 administration of this part ~~chapter~~, may require the  
2 manufacturer or registrant to submit the complete formula,  
3 quantities shipped into or manufactured in the state for  
4 distribution and sale, evidence of the efficacy and the safety  
5 of any pesticide, and other relevant data. The department may  
6 review and evaluate a registered pesticide if new information  
7 is made available which indicates that use of the pesticide  
8 has caused an unreasonable adverse effect on public health or  
9 the environment. Such review shall be conducted upon the  
10 request of the secretary of the Department of Health in the  
11 event of an unreasonable adverse effect on public health or  
12 the secretary of the Department of Environmental Protection in  
13 the event of an unreasonable adverse effect on the  
14 environment. Such review may result in modifications,  
15 revocation, cancellation, or suspension of a pesticide  
16 registration. The department, for reasons of adulteration,  
17 misbranding, or other good cause, may refuse or revoke the  
18 registration of any pesticide, after notice to the applicant  
19 or registrant giving the reason for the decision. The  
20 applicant may then request a hearing, pursuant to chapter 120,  
21 on the intention of the department to refuse or revoke  
22 registration, and, upon his or her failure to do so, the  
23 refusal or revocation shall become final without further  
24 procedure. In no event shall registration of a pesticide be  
25 construed as a defense for the commission of any offense  
26 prohibited under this part ~~chapter~~.

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

1           Section 26. Section 487.0435, Florida Statutes, is  
2 amended to read:

3           487.0435 License classification.--The department shall  
4 issue certified applicator licenses in the following  
5 classifications: certified public applicator; certified  
6 private applicator; and certified commercial applicator. In  
7 addition, separate classifications and subclassifications may  
8 be specified by the department in rule as deemed necessary to  
9 carry out the provisions of this part ~~chapter~~. Each  
10 classification shall be subject to requirements or testing  
11 procedures to be set forth by rule of the department and shall  
12 be restricted to the activities within the scope of the  
13 respective classification as established in statute or by  
14 rule. In specifying classifications, the department may  
15 consider, but is not limited to, the following:

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

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

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

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

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

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

27           Section 27. Section 487.045, Florida Statutes, is  
28 amended to read:

29           487.045 Fees.--

30           (1) The department shall establish applicable fees by  
31 rule. The fees shall not exceed \$250 for commercial

1 applicators or \$100 for private applicators and public  
2 applicators, for initial licensing and for each subsequent  
3 license renewal. The fees shall be determined annually and  
4 shall represent department costs associated with enforcement  
5 of the provisions of this part ~~chapter~~.

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

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

12 487.046 Application; licensure.--

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

30 Section 29. Section 487.047, Florida Statutes, is  
31 amended to read:

1           487.047 Nonresident license; reciprocal agreement;  
2 authorized purchase.--

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

8           (2) Any nonresident applying for a license under this  
9 part ~~chapter~~ to operate in the state shall file a Designation  
10 of Registered Agent naming the Secretary of State as the agent  
11 of the nonresident, upon whom process may be served in the  
12 event of any suit against the nonresident. The designation  
13 shall be prepared on a form provided by the department and  
14 shall render effective the jurisdiction of the courts of this  
15 state over the nonresident applicant. However, any nonresident  
16 who has a duly appointed registered agent upon whom process  
17 may be served as provided by law shall not be required to  
18 designate the Secretary of State as registered agent. The  
19 Secretary of State shall be allowed the registered-agent fees  
20 as provided by law for designating registered agents. The  
21 department shall be furnished with a copy of the designation  
22 of the Secretary of State or of a registered agent which is  
23 certified by the Secretary of State. The Secretary of State  
24 shall notify the department of any service of process it  
25 receives as registered agent for persons licensed under this  
26 part ~~chapter~~.

27           (3) Restricted-use pesticides may be purchased by any  
28 person who holds a valid applicator's license or who holds a  
29 valid purchase authorization card issued by the department or  
30 by a licensee under chapter 482 or chapter 388. A nonlicensed  
31 person may apply restricted-use pesticides under the direct

1 supervision of a licensed applicator. An applicator's license  
2 shall be issued by the department on a form supplied by it in  
3 accordance with the requirements of this part ~~chapter~~.

4 Section 30. Subsection (1) of section 487.049, Florida  
5 Statutes, is amended to read:

6 487.049 Renewal; late fee; recertification.--

7 (1) The department shall require renewal of a  
8 certified applicator's license at 4-year intervals from the  
9 date of issuance. If the application for renewal of any  
10 license provided for in this part ~~chapter~~ is not filed on  
11 time, a late fee shall be assessed not to exceed \$50. However,  
12 the penalty shall not apply if the renewal application is  
13 filed within 60 days after the renewal date, provided the  
14 applicant furnishes an affidavit certifying that he or she has  
15 not engaged in business subsequent to the expiration of the  
16 license for a period not exceeding 60 days. A license may be  
17 renewed without taking another examination unless the  
18 department determines that new knowledge related to the  
19 classification for which the applicant has applied makes a new  
20 examination necessary; however, the department may require the  
21 applicant to provide evidence of continued competency, as  
22 determined by rule. If the license is not renewed within 60  
23 days of the expiration date, then the licensee may again be  
24 required to take another examination, unless there is some  
25 unavoidable circumstance which results in the delay of the  
26 renewal of any license issued under this part ~~chapter~~ which  
27 was not under the applicant's control.

28 Section 31. Section 487.051, Florida Statutes, is  
29 amended to read:

30 487.051 Administration; rules; procedure.--

31 (1) The department may by rule:



1           (a) Declare as a pest any form of plant or animal life  
2 or virus which is injurious to plants, humans, domestic  
3 animals, articles, or substances.

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

11           (c) Determine whether pesticides, and quantities of  
12 substances contained in pesticides, are injurious to the  
13 environment. The department shall be guided by the United  
14 States Environmental Protection Agency regulations in this  
15 determination.

16           (d) Establish requirements governing aircraft used for  
17 the aerial application of pesticides, including requirements  
18 for recordkeeping, annual aircraft registration, secure  
19 storage when not in use, area-of-application information, and  
20 reporting any sale, lease, purchase, rental, or transfer of  
21 such aircraft to another person.

22           (e) Establish requirements governing the secure  
23 storage of pesticides used by aerial pesticide applicators.

24           (2) The department is authorized to adopt by rule the  
25 primary standards established by the United States  
26 Environmental Protection Agency with respect to pesticides. If  
27 the provisions of this part ~~chapter~~ are preempted in part by  
28 federal law, those provisions not preempted shall apply. This  
29 chapter is intended as comprehensive and exclusive regulation  
30 of pesticides in this state. Except as provided in chapters  
31 373, 376, 388, 403, and 482, or as otherwise provided by law,

1 no agency, commission, department, county, municipality, or  
2 other political subdivision of the state may adopt laws,  
3 regulations, rules, or policies pertaining to pesticides,  
4 including their registration, packaging, labeling,  
5 distribution, sale, or use, except that local jurisdictions  
6 may adopt or enforce an ordinance pertaining to pesticides if  
7 that ordinance is in the area of occupational license taxes,  
8 building and zoning regulations, disposal or spillage of  
9 pesticides within a water well zone, or pesticide safety  
10 regulations relating to containment at the storage site.

11 Section 32. Subsection (4) of section 487.0615,  
12 Florida Statutes, is amended to read:

13 487.0615 Pesticide Review Council.--

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

21 Section 33. Subsections (1), (2), (3), (4), (6), and  
22 (7) of section 487.071, Florida Statutes, are amended to read:

23 487.071 Enforcement, inspection, sampling, and  
24 analysis.--

25 (1) The department is authorized to enter upon any  
26 public or private premises or carrier where pesticides are  
27 known or thought to be distributed, sold, offered for sale,  
28 held, stored, or applied, during regular business hours in the  
29 performance of its duties relating to pesticides and records  
30 pertaining to pesticides. No person shall deny or refuse  
31 access to the department when it seeks to enter upon any

1 public or private premises or carrier during business hours in  
2 performance of its duties under this part ~~chapter~~.

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

12 (3) The official analysis shall be made from the  
13 official sample. A sealed and identified sample, herein called  
14 "official check sample" shall be kept until the analysis on  
15 the official sample is completed. However, the registrant may  
16 obtain upon request a portion of the official sample. Upon  
17 completion of the analysis of the official sample, a true copy  
18 of the certificate of analysis shall be mailed to the  
19 registrant of the pesticide from whom the official sample was  
20 taken and also to the dealer or agent, if any, and consumer,  
21 if known. If the official analysis conforms with the  
22 provisions of this part ~~chapter~~, the official check sample may  
23 be destroyed. If the official analysis does not conform with  
24 the provisions of this part ~~chapter~~, the rules adopted under  
25 this part ~~chapter~~, and the provisions of the pesticide label  
26 or labeling, the official check sample shall be retained for a  
27 period of 90 days from the date of the certificate of analysis  
28 of the official sample. If within that time the registrant of  
29 the pesticide from whom the official sample was taken makes  
30 demand for analysis by a referee chemist, a portion of the  
31 official check sample sufficient for analysis shall be sent to

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

29 (4) If a pesticide or device fails to comply with the  
30 provisions of this part ~~chapter~~ with reference to the  
31 ingredient statement reflecting the composition of the

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

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

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

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

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

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

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

10 Section 34. Subsections (2), (3), and (4) of section  
11 487.081, Florida Statutes, are amended to read:

12 487.081 Exemptions.--

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

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

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

26 Section 35. Subsection (2) of section 487.091, Florida  
27 Statutes, is amended to read:

28 487.091 Tolerances, deficiencies, and penalties.--

29 (2) If a pesticide is found by analysis to be  
30 deficient in an active ingredient beyond the tolerance as  
31 provided in this part ~~chapter~~, the registrant is subject to a

1 penalty for the deficiency, not to exceed \$10,000 per  
2 violation. However, no penalty shall be assessed when the  
3 official sample was taken from a pesticide that was in the  
4 possession of a consumer for more than 45 days from the date  
5 of purchase by that consumer, or when the product label  
6 specifies that the product should be used by an expiration  
7 date that has passed. Procedures for assessing penalties shall  
8 be established by rule, based on the degree of the deficiency.  
9 Penalties assessed shall be paid to the consumer or, in the  
10 absence of a known consumer, the department. If the penalty is  
11 not paid within the prescribed period of time as established  
12 by rule, the department may deny, suspend, or revoke the  
13 registration of any pesticide.

14 Section 36. Section 487.101, Florida Statutes, is  
15 amended to read:

16 487.101 Stop-sale, stop-use, removal, or hold  
17 orders.--

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

27 (2) The written notice is warning to all persons,  
28 including, but not limited to, the owner or custodian of the  
29 pesticide or the owner's or custodian's agents or employees,  
30 to scrupulously refrain from moving, bothering, altering, or  
31 interfering with the pesticide or device or from altering,

1 defacing, or in any way interfering with the written notice or  
2 permitting the same to be done. The willful violation of these  
3 provisions is a misdemeanor, subjecting the violator to the  
4 penalty provisions of this part ~~chapter~~.

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

9 (4) The owner or custodian, with authorization and  
10 supervision of the department, may relabel the pesticide or  
11 device so that the label will conform to the product, or  
12 transfer and return the product to the manufacturer or  
13 supplier for the purpose of bringing the product in compliance  
14 with the provisions of this part ~~chapter~~.

15 Section 37. Subsection (1) of section 487.111, Florida  
16 Statutes, is amended to read:

17 487.111 Seizure, condemnation, and sale.--

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

30 Section 38. Section 487.13, Florida Statutes, is  
31 amended to read:



1           487.13 Cooperation.--The department is authorized and  
2 empowered to cooperate with and enter into agreements with any  
3 other agency of this state, the United States Department of  
4 Agriculture, the United States Environmental Protection  
5 Agency, and any other state or federal agency for the purpose  
6 of carrying out the provisions of this part ~~chapter~~ and  
7 securing uniformity of regulations.

8           Section 39. Section 487.156, Florida Statutes, is  
9 amended to read:

10           487.156 Governmental agencies.--All governmental  
11 agencies shall be subject to the provisions of this part  
12 ~~chapter~~ and rules adopted under this part ~~chapter~~. Public  
13 applicators using or supervising the use of restricted-use  
14 pesticides shall be subject to examination as provided in s.  
15 487.044.

16           Section 40. Subsection (1) of section 487.159, Florida  
17 Statutes, is amended to read:

18           487.159 Damage or injury to property, animal, or  
19 person; mandatory report of damage or injury; time for filing;  
20 failure to file.--

21           (1) The person claiming damage or injury to property,  
22 animal, or human beings from application of a pesticide shall  
23 file with the department a written statement claiming damages,  
24 on a form prescribed by the department, within 48 hours after  
25 the damage or injury becomes apparent. The statement shall  
26 contain, but shall not be limited to, the name of the person  
27 responsible for the application of the pesticide, the name of  
28 the owner or lessee of the land on which the crop is grown and  
29 for which the damages are claimed, and the date on which it is  
30 alleged that the damages occurred. The department shall  
31 investigate the alleged damages and notify all concerned

1 parties of its findings. If the findings reveal a violation of  
2 the provisions of this part ~~chapter~~, the department shall  
3 determine an appropriate penalty, as provided in this part  
4 ~~chapter~~. The filing of a statement or the failure to file such  
5 a statement need not be alleged in any complaint which might  
6 be filed in a court of law, and the failure to file the  
7 statement shall not be considered any bar to the maintenance  
8 of any criminal or civil action.

9 Section 41. Section 487.161, Florida Statutes, is  
10 amended to read:

11 487.161 Exemptions, nonagricultural pest control and  
12 research.--

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

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

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

26 Section 42. Section 487.163, Florida Statutes, is  
27 amended to read:

28 487.163 Information; interagency cooperation.--

29 (1) The department may, in cooperation with the  
30 University of Florida or other agencies of government, publish  
31 information and conduct short courses of instruction in the

1 safe use and application of pesticides for the purpose of  
2 carrying out the provisions of this part ~~chapter~~.

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

9 Section 43. Subsections (1), (2), and (3) of section  
10 487.171, Florida Statutes, are amended to read:

11 487.171 Classification of antifouling paint containing  
12 organotin compounds as restricted-use pesticides; prohibition  
13 of distribution and sale.--

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

22 (2) The department shall initiate action under chapter  
23 120, to deny or cancel the registration of antifouling paints  
24 containing organotin compounds which do not have an acceptable  
25 release rate or do not meet other criteria established by the  
26 department in accordance with this part ~~chapter~~.

27 (3) Distribution, sale, and use of antifouling paints  
28 containing organotin compounds with acceptable release rates  
29 shall be limited to dealers and applicators licensed by the  
30 department in accordance with this part ~~chapter~~, to  
31 distribute, sell, or use restricted-use pesticides. Such paint

1 may be applied only by licensed applicators and may be applied  
2 only to vessels which exceed 25 meters in length or which have  
3 aluminum hulls.

4 Section 44. Section 487.175, Florida Statutes, is  
5 amended to read:

6 487.175 Penalties; administrative fine; injunction.--

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

12 (a) Denial of an application for licensure.

13 (b) Revocation or suspension of a license.

14 (c) Issuance of a warning letter.

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

22 (e) Imposition of an administrative fine not to exceed  
23 \$10,000 for each violation. When imposing any fine under this  
24 paragraph, the department shall consider the degree and extent  
25 of harm caused by the violation, the cost of rectifying the  
26 damage, the amount of money the violator benefited from by  
27 noncompliance, whether the violation was committed willfully,  
28 and the compliance record of the violator.

29 (2) Any person who violates any provision of this part  
30 chapter or rules adopted pursuant thereto commits a  
31 misdemeanor of the second degree and upon conviction is

1 punishable as provided in ss. 775.082 and 775.083. For a  
2 subsequent violation, such person commits a misdemeanor of the  
3 first degree and upon conviction is punishable as provided in  
4 ss. 775.082 and 775.083.

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

19 Section 45. Subsection (1) of section 403.088, Florida  
20 Statutes, is amended to read:

21 403.088 Water pollution operation permits;  
22 conditions.--

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

1 the case of insect control, or the department, in the case of  
2 aquatic weed or algae control. The department is directed to  
3 enter into interagency agreements to establish the procedures  
4 for program approval. Such agreements shall provide for public  
5 health, welfare, and safety, as well as environmental factors.  
6 Approved programs must provide that only chemicals approved  
7 for the particular use by the United States Environmental  
8 Protection Agency or by the Department of Agriculture and  
9 Consumer Services may be employed and that they be applied in  
10 accordance with registered label instructions, state standards  
11 for such application, and the provisions of the Florida  
12 Pesticide Law, part I of chapter 487.

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

15 482.242 Preemption.--

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

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

29 (b) Land development regulations adopted pursuant to  
30 chapter 163 which include regulation of any aspect of  
31 development, including a subdivision, building construction,

1 sign regulation or any other regulation concerning the  
2 development of land, or landscaping or tree protection  
3 ordinances which do not include pesticide application  
4 restrictions.

5 (c) Regulations that:

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

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

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

16

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

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

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

25 (f) Hazardous material unlawful discharge and  
26 disposal.

27 (g) Hazardous materials remediation.

28 Section 47. Paragraph (x) of subsection (1) of section  
29 500.03, Florida Statutes, is amended to read:

30 500.03 Definitions; construction; applicability.--

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

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

7           Section 48. Subsections (1) and (6) of section 570.44,  
8 Florida Statutes, are amended to read:

9           570.44 Division of Agricultural Environmental  
10 Services; powers and duties.--The duties of the Division of  
11 Agricultural Environmental Services include, but are not  
12 limited to:

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

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

28           Section 49. Part II of chapter 487, Florida Statutes,  
29 consisting of sections 487.2011, 487.2021, 487.2031, 487.2041,  
30 487.2051, 487.2061, and 487.2071, is created to read:

31



1           487.2011 Part title; administration.--This part may be  
2 cited as the "Florida Agricultural Worker Safety Act" and  
3 shall be administered by the Department of Agriculture and  
4 Consumer Services.

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

10           487.2031 Definitions.--As used in this part, the term:

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

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

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

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

25           (5) "Designated representative" means any immediate  
26 family member, health service provider, coworker, or language  
27 interpreter to whom a worker gives written authorization to  
28 exercise the right to request agricultural pesticide  
29 information pursuant to this part.

30           (6) "Fact sheet" means an agricultural pesticide fact  
31 sheet approved by the state or federal government which

1 provides information about the impacts of the use of an  
2 agricultural pesticide.

3 (7) "Material safety data sheet" means written or  
4 printed material concerning an agricultural pesticide which  
5 states:

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, explosion, corrosivity, or  
11 reactivity.

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

16 3. The primary routes of entry and the symptoms of  
17 overexposure.

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

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

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

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

1 telephone number of any manufacturer responsible for preparing  
2 the sheet.

3 (8) "Retaliatory action" means an action, such as  
4 dismissal, demotion, harassment, blacklisting with other  
5 employers, reducing pay or work hours, or taking away company  
6 housing, which is taken by an agricultural employer against a  
7 worker who exercises any right under the provisions of the  
8 United States Environmental Protection Agency Worker  
9 Protection Standard, 40 C.F.R. s. 1707(b), 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.

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

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

31

1           487.2051 Availability of agricultural pesticide  
2 information to workers and medical personnel.--

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

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

8           1. An agricultural pesticide has been applied within  
9 30 days of that entry; or

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

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

13           (2) The agricultural pesticide information provided  
14 pursuant to subsection (1) must be in the form of a fact sheet  
15 or a material safety data sheet. The agricultural employer  
16 shall provide a written copy of the information provided  
17 pursuant to subsection (1) within 2 weeks after a request for  
18 the information by a worker or a designated representative.  
19 In the case of a pesticide-related medical emergency, the  
20 agricultural employer shall provide a written copy of the  
21 information promptly on the request of the worker, the  
22 designated representative, or medical personnel treating the  
23 worker.

24           (3) The manufacturer of an agricultural pesticide  
25 shall prepare a material safety data sheet. The manufacturer,  
26 importer, or distributor of an agricultural pesticide shall  
27 provide each direct purchaser with a material safety data  
28 sheet. If the material safety data sheet for an agricultural  
29 pesticide is not available when the agricultural pesticide is  
30 purchased, the agricultural employer shall take appropriate  
31 and timely steps to obtain the material safety data sheet or

1 fact sheet from the distributor, the manufacturer, the  
2 department, a federal agency, or another distribution source.

3 (4) The department shall produce and make available to  
4 a trainer a one-page general agricultural pesticide safety  
5 sheet. The safety sheet must be in a language understandable  
6 to the worker and must include, but need not be limited to,  
7 illustrated instructions on preventing agricultural pesticide  
8 exposure and toll-free telephone numbers to the Florida Poison  
9 Control Centers. The trainer shall provide the safety sheet  
10 to the worker pursuant to the United States Environmental  
11 Protection Agency Worker Protection Standard, 40 C.F.R. s.  
12 170.130.

13 487.2061 Prohibited acts.--An agricultural employer  
14 may not:

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

17 (2) Take retaliatory action.

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

21 (1) Penalties set forth in this part shall be applied  
22 to any agricultural employer who violates any provision of  
23 this part. An agricultural employer who violates this part is  
24 subject to federal penalties as provided in the United States  
25 Environmental Protection Agency Work Protection Standard, 40  
26 C.F.R. s. 170.9(b).

27 (2) A worker who has been subject to retaliatory  
28 action and seeks relief pursuant to this section shall file a  
29 complaint with the department.

30 (3) In any action brought pursuant to this section  
31 which involves retaliatory action, if retaliatory action is

1 predicated on the disclosure by a worker of an illegal action,  
2 policy, or practice of the agricultural employer to an  
3 appropriate governmental agency, the worker may not be  
4 required to show that the disclosure was under oath or in  
5 writing or that the worker notified the employer in writing of  
6 the illegal action, policy, or practice.

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

14 Section 50. The Division of Statutory Revision is  
15 requested to designate sections 487.011-487.175, Florida  
16 Statutes, as part I of chapter 487, entitled the "Florida  
17 Pesticide Law," and sections 487.2011-487.2071, Florida  
18 Statutes, as created by this act, as part II of that chapter,  
19 entitled the "Florida Agricultural Worker Safety Act."

20 Section 51. This act shall take effect July 1, 2004.

21  
22 \*\*\*\*\*

23 SENATE SUMMARY

24 Revises various provisions governing the regulation of  
25 migrant labor. Revises the membership of the Legislative  
26 Commission on Migrant Labor. Revises duties of the  
27 Department of Business and Professional Regulation with  
28 respect to the certification of registration for farm  
29 labor contractors. Revises duties of the Department of  
30 Health with respect to residential migrant housing.  
31 Creates part II of ch. 487, F.S., the "Florida  
Agricultural Worker Safety Act." Requires agricultural  
employers to provide employees with information  
concerning agricultural pesticides. Requires the  
Department of Agriculture and Consumer Services to  
administer the act and monitor compliance. (See bill for  
details.)