

1 when 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; amending s.
30 381.0087, F.S.; clarifying that a person who
31 willfully refuses a citation commits a

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

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

25 providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Subsection (1) of section 450.191, Florida
30 Statutes, is amended to read:

31

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 and~~
6 seasonal workers and their employers as to the ways and means
7 of improving living and working conditions of migrant and
8 seasonal workers;

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

15 (c) Provide coordination for the enforcement of ss.
16 381.008-381.0088 and ss. 450.27-450.38;

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

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

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

29 (g) Cooperate with the Department of Agriculture and
30 Consumer Services to conduct an education program for
31

1 employers of migrant laborers pertaining to the standards,
2 methods, and objectives of the office;

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

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

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

13 Section 2. Section 450.201, Florida Statutes, is
14 amended to read:

15 450.201 Legislative Commission on Migrant and Seasonal
16 Labor; membership; filling vacancies.--

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

31

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

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

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

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

11 (1) One nonvoting member representing the Department
12 of Community Affairs;

13 (2) One nonvoting member representing the Department
14 of Health;

15 (3) One nonvoting member representing the Department
16 of Agriculture and Consumer Services;

17 (4) One nonvoting member representing the Department
18 of Education;

19 (5) One member representing the Florida Farm Bureau
20 Federation;

21 (6) One member representing the United Farm Workers,
22 AFL-CIO Florida State Federated Labor Council;

23 (7) One member representing the Florida Fruit and
24 Vegetable Association;

25 (8) One member representing the Florida Citrus Mutual
26 Citrus Industrial Council;

27 (9) One nonvoting member representing the Executive
28 Office of the Governor ~~Florida Sugar Cane League;~~

29 (10) One member representing the Farmworker
30 Association of Florida;

31

1 (11) One member representing a nonprofit entity that
2 provides social services for migrant workers;

3 (12) One member representing migrant nonprofit housing
4 interests;

5 (13) One nonvoting member representing the Department
6 of Business and Professional Regulation;

7 (14) One nonvoting member representing the Agency for
8 Workforce Innovation;

9 (15) One nonvoting member representing the Department
10 of Children and Family Services;

11 (16) One member representing Farmworker Self-Help; and

12 (17) One member representing the Farm Labor Organizing
13 Committee.~~Not fewer than two or more than four other persons~~
14 ~~selected and appointed by the commission.~~

15 Section 4. Section 450.231, Florida Statutes, is
16 amended to read:

17 450.231 Annual reports to Legislature.--The commission
18 shall report its findings, recommendations, and proposed
19 legislation to each regular session of the Legislature no
20 later than February 1 of each year, beginning in 2006.

21 Section 5. Section 450.27, Florida Statutes, is
22 amended to read:

23 450.27 Short title.--This part may be cited as the
24 "Farm Labor Contractor Registration Law."

25 Section 6. Section 450.271, Florida Statutes, is
26 amended to read:

27 450.271 State administration of the Migrant and
28 Seasonal Agricultural Worker Protection Act.--The Department
29 of Business and Professional Regulation ~~Labor and Employment~~
30 ~~Security~~ may enter into agreements with the Secretary of Labor
31 of the United States to authorize the department to administer

1 within the State of Florida the provisions of the Migrant and
2 Seasonal Agricultural Worker Protection Act of 1983, as
3 amended.

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

6 450.28 Definitions.--

7 (5) "Minor violation" means a violation of a specific
8 statute or rule which does not present an imminent threat to
9 the health or welfare of an employee of a farm labor
10 contractor.

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

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

17 450.30 Requirement of certificate of registration;
18 education and examination program.--

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

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

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

29 (7) The department shall charge each applicant a \$35
30 fee for the education and examination program. Such fees shall

31

1 be deposited in the Professional Regulation ~~Crew Chief~~
2 ~~Registration~~ Trust Fund.

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

6 450.31 Issuance, revocation, and suspension of, and
7 refusal to issue or renew, certificate of registration.--

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

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

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

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

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

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

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

4 (a) Violated or failed to comply with any provision of
5 this part or the rules adopted pursuant to this part; ~~s.~~
6 ~~450.36.~~

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

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

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

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

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

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

21 (5) The department may permanently revoke or refuse to
22 issue or renew a certificate of registration if the applicant
23 or certificate holder has been convicted within the preceding
24 5 years of:

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

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

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

30 (b) A felony under state or federal law involving
31 robbery, bribery, extortion, embezzlement, grand larceny,

1 burglary, arson, violation of narcotics laws, murder, rape,
2 assault with intent to kill, assault that inflicts grievous
3 bodily injury, prostitution, peonage, or smuggling or
4 harboring individuals who have entered the country illegally.

5 (6) Receipt and acceptance of a certificate of
6 registration as a farm labor contractor constitutes
7 unconditional permission and acquiescence by the contractor to
8 the inspection by department personnel of books, ledgers, and
9 all other documents related to the performance of the
10 contractor's farm labor activities.

11 Section 10. Section 450.321, Florida Statutes, is
12 created to read:

13 450.321 Best practices incentive program for farm
14 labor contractors.--

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

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

25 (3) The department may enter into a partnership
26 agreement with a farm labor contractor which states the
27 responsibilities of each party to the agreement regarding the
28 requirements to receive and maintain a best practices
29 designation. Recipients of a designation as a best practices
30 farm labor contractor may use the designation when soliciting
31 business as long as the designation remains in effect.

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

8 (5) The grant of a designation as a best practices
9 employer is not an endorsement of the recipient by the
10 department, and may not be characterized as such an
11 endorsement.

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

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

19 Section 11. Subsection (10) of section 450.33, Florida
20 Statutes, is amended and subsection (11) is added to that
21 section, to read:

22 450.33 Duties of farm labor contractor.--Every farm
23 labor contractor must:

24 (10) Comply with all applicable statutes, rules, and
25 regulations of the United States and of the State of Florida
26 for the protection or benefit of labor, including, but not
27 limited to, those providing for wages, hours, fair labor
28 standards, social security, workers' compensation,
29 unemployment compensation, child labor, and transportation.

30 ~~The department shall not suspend or revoke a certificate of~~
31 ~~registration pursuant to this subsection unless:~~

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

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

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

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

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

21 450.34 Prohibited acts of farm labor contractor.--A
22 licensee may not:

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

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

30 Section 13. Section 450.35, Florida Statutes, is
31 amended to read:

1 450.35 Certain contracts prohibited.--It is unlawful
2 for any person to contract with or employ ~~for the employment~~
3 ~~of farm workers with~~ any farm labor contractor as defined in
4 this act, for matters relating to farm labor, until the labor
5 contractor displays to him or her a current certificate of
6 registration issued by the department pursuant to the
7 requirements of this part. A violation of this section is
8 subject to the penalties provided for violations in s.
9 450.38(1).

10 Section 14. Section 450.37, Florida Statutes, is
11 amended to read:

12 450.37 Cooperation with state and federal
13 agencies.--The department shall, whenever appropriate,
14 cooperate with any federal agency. The department may
15 cooperate with and enter into agreements with any other state
16 agency to administer this chapter or secure uniform rules.

17 Section 15. Section 450.38, Florida Statutes, is
18 amended to read:

19 450.38 Enforcement of farm labor contractor laws.--

20 (1) Any person, firm, association, or corporation not
21 excluded under s. 450.29 which commits a minor violation ~~who~~
22 ~~violates any provision~~ of this part commits a misdemeanor of
23 the second degree, punishable as provided in s. 775.082 or s.
24 775.083.

25 (2) Any person, firm, association, or corporation that
26 commits a major violation of this part commits a felony of the
27 third degree, punishable as provided in s. 775.082, s.
28 775.083, or s. 775.084.

29 (3)(2) Any person, firm, association, or corporation
30 that ~~who, on or after June 19, 1985,~~ commits a violation of
31 this part or of any rule adopted thereunder may be assessed a

1 civil penalty of not more than \$2,500~~\$1,000~~ for each such
2 violation. Such assessed penalties shall be paid by cashier's
3 check ~~in cash~~, certified check, or money order and shall be
4 deposited into the General Revenue Fund. The department shall
5 not institute or maintain any administrative proceeding to
6 assess a civil penalty under this subsection when the
7 violation is the subject of a criminal indictment or
8 information under this section which results in a criminal
9 penalty being imposed, or of a criminal, civil, or
10 administrative proceeding by the United States government or
11 an agency thereof which results in a criminal or civil penalty
12 being imposed. The department may adopt rules prescribing the
13 criteria to be used to determine the amount of the civil
14 penalty and to provide notification to persons assessed a
15 civil penalty under this section.

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

24 (5)~~(4)~~ For the purpose of any investigation or
25 proceeding conducted by the department, the secretary of the
26 department or the secretary's designee shall have the power to
27 administer oaths, take depositions, make inspections when
28 authorized by statute, issue subpoenas which shall be
29 supported by affidavit, serve subpoenas and other process, and
30 compel the attendance of witnesses and the production of
31 books, papers, documents, and other evidence. The secretary of

1 the department or the secretary's designee shall exercise this
2 power on the secretary's own initiative.

3 (6) A farm labor contractor who commits a minor
4 violation of this part shall be issued a warning for the first
5 violation. A civil penalty in increments of at least \$250 may
6 be assessed for each successive violation of a specific
7 statute or rule of this part within a 2-year period from the
8 date of the first violation, to a maximum of \$2,500. The
9 department may revoke the certificate of registration for a
10 farm labor contractor who commits an additional minor
11 violation after reaching the \$2,500 maximum amount of a
12 cumulative fine authorized in this subsection.

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

23 Section 16. Section 450.39, Florida Statutes, is
24 created to read:

25 450.39 Prohibition against required purchase;
26 prohibition against excessive charges.--

27 (1) A farm labor contractor may not require that a
28 farmworker purchase goods or services solely from that farm
29 labor contractor or from a person acting as an agent for that
30 farm labor contractor.

31

1 (2) A farm labor contractor may not charge a
2 farmworker more than a reasonable cost for any commodity,
3 including housing, food, water, or other consumables in
4 accordance with 29 C.F.R. s. 531.3. As used in this
5 subsection, the term "reasonable cost" does not include a
6 profit to the farm labor contractor or to any other person
7 acting as an agent for the farm labor contractor.

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

11 381.0087 Enforcement; citations.--

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

27 (6) Any person who willfully refuses to sign and
28 accept a citation issued by the department commits ~~or the~~
29 ~~Department of Labor and Employment Security~~ is guilty of a
30 misdemeanor of the second degree, punishable as provided in s.
31 775.082 or s. 775.083.

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

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

5 381.008 Definitions of terms used in ss.
6 381.008-381.00897.--As used in ss. 381.008-381.00897, the
7 following words and phrases mean:

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

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

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

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

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

25 Section 19. Subsections (1) and (2) of section
26 381.0086, Florida Statutes, are amended, and subsection (6) is
27 added to that section, to read:

28 381.0086 Rules; variances; penalties.--

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

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

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

21 (a) Clearly specify the standard from which the
22 variance is desired;

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

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

1 (6) For the purpose of filing an interstate clearance
2 order with the Agency for Workforce Innovation, if the housing
3 is covered by 20 C.F.R., part 654, subpart E, the structural
4 variance referred to in subsection (2) is prohibited.

5 Section 20. Section 487.011, Florida Statutes, is
6 amended to read:

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

11 Section 21. Section 487.012, Florida Statutes, is
12 amended to read:

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

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

20 487.021 Definitions.--For the purpose of this chapter:

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

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

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

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

1 487.025 Misbranding.--

2 (2) A pesticide is misbranded if:

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

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

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

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

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

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

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

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

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

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

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

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

22 487.031 Prohibited acts.--It is unlawful:

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

30 (4) To detach, alter, deface, or destroy, in whole or
31 in part, any label or labeling provided for in this part

1 ~~chapter~~ or rules promulgated under this part ~~chapter~~, or to
2 add any substance to, or take any substance from, any
3 pesticide in a manner that may defeat the purpose of this part
4 ~~chapter~~.

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

14 (13) For any person to:

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

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

24 (c) Operate faulty or unsafe equipment;

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

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

30 (f) Fail to disclose to an agricultural crop grower,
31 prior to the time pesticides are applied to a crop, full

1 information regarding the possible harmful effects to human
2 beings or animals and the earliest safe time for workers or
3 animals to reenter the treated field;

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

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

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

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

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

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

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

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

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

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

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 organization
26 or person to whom a worker gives written authorization to
27 exercise the right to request agricultural pesticide
28 information pursuant to this part.

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

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 working days after a
18 request for the information by a worker or a designated
19 representative. In the case of a pesticide-related medical
20 emergency, the agricultural employer shall provide a written
21 copy of the information promptly on the request of the worker,
22 the designated representative, or medical personnel treating
23 the worker.

24 (3) Upon the initial purchase of a product and with
25 the first purchase after the material safety data sheet is
26 updated, the distributor, manufacturer, or importer of any
27 agricultural pesticide shall obtain or develop and provide
28 each direct purchaser of an agricultural pesticide with a
29 material safety data sheet. If the material safety data sheet
30 or fact sheet for the agricultural pesticide is not available
31 when the agricultural pesticide is purchased, the agricultural

1 employer shall take appropriate and timely steps to obtain the
2 material safety data sheet or fact sheet from the distributor,
3 the manufacturer, the department, a federal agency, or another
4 distribution source.

5 (4) The department shall produce and make available to
6 a trainer a one-page general agricultural pesticide safety
7 sheet. The safety sheet must be in a language understandable
8 to the worker and must include, but need not be limited to,
9 illustrated instructions on preventing agricultural pesticide
10 exposure and toll-free telephone numbers to the Florida Poison
11 Control Centers. The trainer shall provide the safety sheet
12 to the worker pursuant to the United States Environmental
13 Protection Agency Worker Protection Standard, 40 C.F.R. s.
14 170.130.

15 487.2061 Prohibited acts.--Any person covered by this
16 part may not:

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

19 (2) Take retaliatory action.

20 487.2071 Penalties against violators; worker relief;
21 monitoring complaints of retaliation.--

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

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

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

1 predicated on the disclosure by a worker of an illegal action,
2 policy, or practice of any person covered by this part 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 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
23 COMMITTEE SUBSTITUTE FOR
24 CS/SB 2954

25 The committee substitute authorizes the Executive Office of
26 the Governor to advise and consult with migrant and seasonal
27 workers and their employers as to ways and means of improving
28 living and working conditions of migrant and seasonal workers.
29
30
31