

CHAMBER ACTION

1 The Committee on Commerce recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to worker safety with respect to
7 agricultural pesticides; creating s. 487.2011, F.S.;
8 providing a part title; creating s. 487.2021, F.S.;
9 declaring legislative intent; creating s. 487.2031, F.S.;
10 defining terms; creating s. 487.2041, F.S.; providing for
11 enforcement of federal worker protection regulations;
12 creating s. 487.2051, F.S.; requiring agricultural
13 employers to make agricultural pesticide information
14 available to workers, service providers, medical
15 personnel, and certain organizations; creating s.
16 487.2061, F.S.; prohibiting agricultural employers from
17 failing to provide required information and from taking
18 retaliatory action against workers for exercising their
19 rights; creating s. 487.2071, F.S.; providing penalties;
20 providing for relief against retaliation; providing for
21 monitoring complaints of retaliation; providing for a
22 report; amending ss. 487.011, 487.012, 487.021, 487.025,
23 487.031, 487.041, 487.0435, 487.045, 487.046, 487.047,

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24 | 487.049, 487.051, 487.0615, 487.071, 487.081, 487.091,
 25 | 487.101, 487.111, 487.13, 487.156, 487.159, 487.161,
 26 | 487.163, 487.171, and 487.175, F.S.; changing the term
 27 | "chapter" to "part" to conform to the act; amending ss.
 28 | 403.088, 482.242, 500.03, and 570.44, F.S.; conforming
 29 | references; providing a directive to the Division of
 30 | Statutory Revision; providing an effective date.

31

32 | Be It Enacted by the Legislature of the State of Florida:

33

34 | Section 1. Section 487.2011, Florida Statutes, is created
 35 | to read:

36 | 487.2011 Part title.--This part may be cited as the
 37 | "Florida Agricultural Worker Safety Act" and shall be
 38 | administered by the Department of Agriculture and Consumer
 39 | Services.

40 | Section 2. Section 487.2021, Florida Statutes, is created
 41 | to read:

42 | 487.2021 Legislative intent.--It is the intent of the
 43 | Legislature, by this part, to ensure that agricultural workers
 44 | employed in the state receive protection from agricultural
 45 | pesticides. The Legislature intends to ensure that agricultural
 46 | workers be given information concerning agricultural pesticides.

47 | Section 3. Section 487.2031, Florida Statutes, is created
 48 | to read:

49 | 487.2031 Definitions.--For purposes of this part, the
 50 | term:

51 (1) "Agricultural employer" means any person who hires or
 52 contracts for the services of workers, for any type of
 53 compensation, to perform activities related to the production of
 54 agricultural plants, or any person who is an owner of or is
 55 responsible for the management or condition of an agricultural
 56 establishment that uses such workers.

57 (2) "Agricultural establishment" means any farm, forest,
 58 nursery, or greenhouse.

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

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

65 (5) "Fact sheet" means any state or federally approved
 66 fact sheet.

67 (6) "Material safety data sheet" means written or printed
 68 material concerning an agricultural pesticide which sets forth
 69 the following information:

70 (a) The chemical name and the common name of the
 71 agricultural pesticide.

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

74 1. The potential for fire, explosions, corrosivity, and
 75 reactivity.

76 2. The known acute health effects and chronic health
 77 effects of risks from exposure to the agricultural pesticide,
 78 including those medical conditions which are generally

79 | recognized as being aggravated by exposure to the agricultural
80 | pesticide.

81 | 3. The primary routes of entry and symptoms of
82 | overexposure.

83 | (c) The proper precautions, handling practices, necessary
84 | personal protective equipment, and other safety precautions in
85 | the use of or exposure to the agricultural pesticide, including
86 | appropriate emergency treatment in case of overexposure.

87 | (d) The emergency procedures for spills, fire, disposal,
88 | and first aid.

89 | (e) A description of the known specific potential health
90 | risks posed by the agricultural pesticide, which description is
91 | written in lay terms and is intended to alert any person who
92 | reads the information.

93 | (f) The year and the month, if available, that the
94 | information was compiled and the name, address, and emergency
95 | telephone number of the manufacturer responsible for preparing
96 | the information.

97 | (7) "Retaliation" means actions, such as dismissal,
98 | demotion, harassment, blacklisting with other employers,
99 | reducing pay or work hours, or taking away company housing, by
100 | any agricultural employer against any worker who exercises any
101 | right under the United States Environmental Protection Agency
102 | Worker Protection Standard, 40 C.F.R. s. 170.7(b) (August 21,
103 | 1992), or this part.

104 | (8) "Trainer" means any person who qualifies to train
105 | workers under the pesticide safety training requirements of the

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106 United States Environmental Protection Agency Worker Protection
107 Standard, 40 C.F.R. s. 170.130 (August 21, 1992).

108 (9) "Worker" means any person, including a farmworker or a
109 self-employed person, who is employed for any type of
110 compensation and who is performing activities relating to the
111 production of agricultural plants on an agricultural
112 establishment. The term "worker" does not include any person
113 employed by a commercial pesticide handling establishment to
114 perform tasks as a crop advisor.

115 Section 4. Section 487.2041, Florida Statutes, is created
116 to read:

117 487.2041 Enforcement of federal worker protection
118 regulations.--The department shall adopt by rule the regulations
119 established by the United States Environmental Protection Agency
120 Labeling Requirement for Pesticides and Devices, 40 C.F.R. part
121 156, and the Worker Protection Standard, 40 C.F.R. part 170,
122 adopted August 21, 1992. If the provisions of this part are
123 preempted in part by federal law, those provisions not preempted
124 shall apply.

125 Section 5. Section 487.2051, Florida Statutes, is created
126 to read:

127 487.2051 Availability of agricultural pesticide
128 information.--

129 (1)(a) The agricultural employer shall make available
130 agricultural pesticide information concerning any agricultural
131 pesticide to any worker who enters an agricultural pesticide
132 treated area on an agricultural establishment where, within the
133 last 30 days, an agricultural pesticide has been applied or a

134 restricted-entry interval has been in effect or to any worker
135 who may be exposed to the agricultural pesticide during normal
136 conditions of use or in a foreseeable emergency.

137 (b) The agricultural pesticide information shall be in the
138 form of a material safety data sheet or a state or federally
139 approved fact sheet. The agricultural employer shall provide a
140 written copy of the information specified in this section within
141 2 working days after a request for the information by a worker,
142 a service provider, a community-based organization, a charitable
143 organization, or medical personnel on behalf of the worker.

144 (c) The distributor, manufacturer, or importer of
145 agricultural pesticides shall prepare and provide each direct
146 purchaser of agricultural pesticides with a material safety data
147 sheet. If the material safety data sheet or fact sheet for the
148 agricultural pesticide is not available at the time the
149 agricultural pesticide is purchased, the agricultural employer
150 shall take appropriate and timely steps to obtain the material
151 safety data sheet or fact sheet from the distributor, the
152 manufacturer, the department, a federal agency, or another
153 distribution source.

154 (2) The department shall design and make available to the
155 trainer a one-page general agricultural pesticide safety sheet,
156 hereafter referred to as "safety sheet." This safety sheet must
157 be in a language understood by the worker and must include, but
158 is not limited to, illustrated instructions on prevention of
159 agricultural pesticide exposure and toll-free numbers to the
160 Florida Poison Control Centers so that workers may call for
161 additional agricultural pesticide exposure information. The

162 trainer shall provide to the worker the safety sheet at the time
 163 of training pursuant to the United States Environmental
 164 Protection Agency Worker Protection Standard, 40 C.F.R. s.
 165 170.130 (August 21, 1992).

166 Section 6. Section 487.2061, Florida Statutes, is created
 167 to read:

168 487.2061 Prohibited acts.--It is unlawful for any
 169 agricultural employer to:

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

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

176 Section 7. Section 487.2071, Florida Statutes, is created
 177 to read:

178 487.2071 Penalties against agricultural employer
 179 violators; worker relief; monitoring complaints of
 180 retaliation.--

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

187 (2)(a) Any worker who has been retaliated against by any
 188 agricultural employer for exercising any right under the United
 189 States Environmental Protection Agency Worker Protection

190 Standard, 40 C.F.R. s. 170.7(b) (August 21, 1992), or this part
 191 may seek relief under ss. 448.102-448.104.

192 (b) Any worker who has been retaliated against by any
 193 agricultural employer for exercising any right under the United
 194 States Environmental Protection Agency Worker Protection
 195 Standard, 40 C.F.R. s. 170.7(b) (August 21, 1992), or this part
 196 and seeks relief pursuant to this section, or an individual or
 197 organization authorized by s. 487.2051(1)(b), shall file a
 198 complaint with the department of such retaliation.

199 (c) In any action brought pursuant to this section where
 200 the retaliatory personnel action is predicated upon the
 201 disclosure of an illegal activity, policy, or practice to an
 202 appropriate governmental agency, the worker shall not be
 203 required to show that the disclosure to the governmental agency
 204 was under oath or in writing or that the notification to the
 205 employer concerning the illegal activity, policy, or practice
 206 was in writing as provided in s. 448.102(1).

207 (3) The department shall monitor all complaints of
 208 retaliation which it receives and report its findings to the
 209 President of the Senate and the Speaker of the House of
 210 Representatives on October 1, 2007. The report shall include the
 211 number of such complaints received, the circumstances
 212 surrounding the complaints, and the action taken concerning the
 213 complaints.

214 Section 8. Section 487.011, Florida Statutes, is amended
 215 to read:

216 487.011 Part ~~Short~~ title; administration.--This part
 217 ~~chapter~~ may be cited as the "Florida Pesticide Law" and shall be

218 administered by the Department of Agriculture and Consumer
219 Services.

220 Section 9. Section 487.012, Florida Statutes, is amended
221 to read:

222 487.012 Declaration of purpose.--The purpose of this part
223 ~~chapter~~ is to regulate the distribution, sale, and use of
224 pesticides, except as provided in chapters 388 and 482, and to
225 protect people and the environment from the adverse effects of
226 pesticides.

227 Section 10. Section 487.021, Florida Statutes, is amended
228 to read:

229 487.021 Definitions.--For the purpose of this part
230 ~~chapter~~:

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

238 (2) "Active ingredient" means:

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

243 (b) In the case of a plant regulator, an ingredient which,
244 through physiological action, will accelerate or retard the rate

245 | of growth or rate of maturation, or otherwise alter the
 246 | behavior, of ornamental or crop plants or the produce thereof.

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

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

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

255 | (4) "Adulterated" applies to any pesticide if its strength
 256 | or purity falls below or is in excess of the professed standard
 257 | of quality as expressed on labeling or under which it is sold,
 258 | if any substance has been substituted wholly or in part for the
 259 | pesticide or if any valuable constituent of the pesticide has
 260 | been wholly or in part abstracted.

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

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

267 | (7) "Aircraft" means any machine designed for flight and
 268 | for use in applying pesticides.

269 | (8) "Animal" means all vertebrate and invertebrate
 270 | species, including, but not limited to, humans and other
 271 | mammals, birds, fish, and shellfish.

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

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

277 (11) "Antisiphon device" means a safety device used to
278 prevent the backflow of a mixture of water and chemicals into
279 the water supply.

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

283 (13) "Brand" means the name, number, trademark, or any
284 other designation which distinguishes one pesticide product from
285 another.

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

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

294 (16) "Commercial applicator" means an individual who has
295 reached the age of majority and is licensed by the department to
296 use or supervise the use of any restricted-use pesticide for any
297 purpose on any property other than as provided by the
298 definitions of "private applicator," "product specific

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299 applicator," or "public applicator," whether or not the
300 individual is a private applicator with respect to some uses.

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

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

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

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

313 (21) "Desiccant" means any substance or mixture of
314 substances intended for artificially accelerating the drying of
315 plant tissues.

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

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

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325 (24) "Distributor" means any person who offers for sale,
326 holds for sale, sells, barter, or supplies pesticides in this
327 state.

328 (25) "Emergency exemption" means an exemption as
329 authorized in s. 18 of the Federal Insecticide, Fungicide, and
330 Rodenticide Act.

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

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

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

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

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

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

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

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

366 (34) "Inert ingredient" means an ingredient which is not
 367 an active ingredient.

368 (35) "Ingredient statement" means a statement of the name
 369 and percentage by weight of each active ingredient, together
 370 with the total percentage of the inert ingredients in the
 371 pesticides.

372 (36) "Insect" means any of the numerous small invertebrate
 373 animals generally having the body more or less obviously
 374 segmented, for the most part belonging to the class Insecta,
 375 comprising six legs, usually in winged form (as, for example,
 376 beetles, bugs, bees, and flies) and to other allied classes and
 377 arthropods whose members are wingless and usually have more than

378 six legs (as, for example, spiders, mites, ticks, centipedes,
379 and wood lice).

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

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

391 (39) "Labeling" means all labels and other written,
392 printed, or graphic matter referencing the pesticide or device
393 or upon any of its containers or wrappers, or accompanying the
394 pesticide or device at any time, but does not include accurate,
395 nonmisleading reference to current official publications of the
396 United States Departments of Agriculture or Interior, the
397 Environmental Protection Agency, the United States Public Health
398 Service, state experiment stations, state agricultural colleges,
399 or other similar federal institutions or official agencies of
400 this state or other states authorized by law to conduct research
401 in the field of pesticides.

402 (40) "Land" means all land and water areas, including
403 airspace.

404 (41) "Licensed applicator" means an individual who has
405 reached the age of majority and is authorized by license from

406 | the department to use or supervise the use of any restricted-use
407 | pesticide covered by the license.

408 | (42) "Manufacturer" means a person engaged in the business
409 | of importing, producing, preparing, mixing, formulating, or
410 | reformulating pesticides for the purpose of distribution.

411 | (43) "Mixer-loader" means any individual who handles open
412 | containers or otherwise prepares, processes, or dilutes
413 | pesticides in preparation for final application.

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

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

423 | (46) "Organotin compound" means any compound of tin used
424 | as a biocide in an antifouling paint.

425 | (47) "Percent" means one one-hundredth part by weight or
426 | volume.

427 | (48) "Pest" means:

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

429 | (b) Any other form of terrestrial or aquatic plant or
430 | animal life or virus, bacteria, or other microorganism, except
431 | viruses, bacteria, or other microorganisms on or in living
432 | humans or other living animals, which is declared to be a pest
433 | by the administrator of the United States Environmental

434 Protection Agency or which may be declared to be a pest by the
435 department by rule.

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

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

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

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

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

457 (51) "Plant regulator" means any substance or mixture of
458 substances intended, through physiological action, for
459 accelerating or retarding the rate of growth or maturation, or
460 for otherwise altering the behavior, of ornamental or crop
461 plants or the produce thereof; but does not include substances

462 intended as plant nutrients, trace elements, nutritional
463 chemicals, plant inoculants, or soil amendments.

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

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

477 (54) "Protect health and the environment" means protection
478 against any unreasonable adverse effects on people or the
479 environment.

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

485 (56) "Product specific applicator" means an individual who
486 has reached the age of majority and is licensed by the
487 department to use or supervise the use of a particular
488 restricted-use pesticide product that is identified on the
489 license by the United States Environmental Protection Agency

490 registration number, as well as any Florida special local need
 491 registration number and any specific identifying information as
 492 deemed appropriate for nonfederally registered products exempt
 493 under s. 18 of the Federal Insecticide, Fungicide, and
 494 Rodenticide Act, provided that the restricted-use pesticide
 495 product is used for the purpose of producing agricultural
 496 commodities on property owned or rented by the licensee or the
 497 licensee's employer, or is applied on the property of another
 498 person without compensation other than trading of personal
 499 services between producers of agricultural commodities.

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

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

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

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

516 (61) "Special review" is a process for reviewing selected
 517 pesticides based upon information that the pesticides have been

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518 found to present environmental or health concerns not considered
519 in the registration process or that data submitted in support of
520 registration are inadequate or outdated.

521 (62) "Tolerance" means the deviation from the guaranteed
522 analysis permitted by law.

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

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

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

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

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

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

544 487.025 Misbranding.--

545 (2) A pesticide is misbranded if:

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

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

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

558 487.031 Prohibited acts.--It is unlawful:

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

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

571 (5) For any person to use for his or her own advantage or
572 to reveal any information relative to formulas of products
573 acquired by authority of this part ~~chapter~~, other than to: the

574 department, proper officials, or employees of the state; the
 575 courts of this state in response to a subpoena; physicians,
 576 pharmacists, and other qualified persons, in an emergency, for
 577 use in the preparation of antidotes. The information relative to
 578 formulas of products is confidential and exempt from the
 579 provisions of s. 119.07(1).

580 (13) For any person to:

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

584 (h) Refuse or neglect to keep and maintain the records
 585 required by this part ~~chapter~~ or to submit reports when and as
 586 required;

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

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

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

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

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

607 Section 13. Subsections (2), (3), and (8) of section
 608 487.041, Florida Statutes, are amended to read:

609 487.041 Registration.--

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

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

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

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

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657 Section 14. Section 487.0435, Florida Statutes, is amended
658 to read:

659 487.0435 License classification.--The department shall
660 issue certified applicator licenses in the following
661 classifications: certified public applicator; certified private
662 applicator; and certified commercial applicator. In addition,
663 separate classifications and subclassifications may be specified
664 by the department in rule as deemed necessary to carry out the
665 provisions of this part ~~chapter~~. Each classification shall be
666 subject to requirements or testing procedures to be set forth by
667 rule of the department and shall be restricted to the activities
668 within the scope of the respective classification as established
669 in statute or by rule. In specifying classifications, the
670 department may consider, but is not limited to, the following:

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

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

683 487.045 Fees.--

684 (1) The department shall establish applicable fees by
 685 rule. The fees shall not exceed \$250 for commercial applicators
 686 or \$100 for private applicators and public applicators, for
 687 initial licensing and for each subsequent license renewal. The
 688 fees shall be determined annually and shall represent department
 689 costs associated with enforcement of the provisions of this part
 690 ~~chapter~~.

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

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

697 487.046 Application; licensure.--

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

712 department verifying licensure shall be kept on the person of
713 the licensee while performing work as a licensed applicator.

714 Section 17. Section 487.047, Florida Statutes, is amended
715 to read:

716 487.047 Nonresident license; reciprocal agreement;
717 authorized purchase.--

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

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

740 (3) Restricted-use pesticides may be purchased by any
741 person who holds a valid applicator's license or who holds a
742 valid purchase authorization card issued by the department or by
743 a licensee under chapter 482 or chapter 388. A nonlicensed
744 person may apply restricted-use pesticides under the direct
745 supervision of a licensed applicator. An applicator's license
746 shall be issued by the department on a form supplied by it in
747 accordance with the requirements of this part ~~chapter~~.

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

750 487.049 Renewal; late fee; recertification.--

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

768 unless there is some unavoidable circumstance which results in
 769 the delay of the renewal of any license issued under this part
 770 ~~chapter~~ which was not under the applicant's control.

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

773 487.051 Administration; rules; procedure.--

774 (1) The department may by rule:

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

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

796 spillage of pesticides within a water well zone, or pesticide
797 safety regulations relating to containment at the storage site.

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

800 487.0615 Pesticide Review Council.--

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

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

810 487.071 Enforcement, inspection, sampling, and analysis.--

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

820 (2) The department is authorized and directed to sample,
821 test, inspect, and make analyses of pesticides sold, offered for
822 sale, distributed, or used within this state, at a time and
823 place and to such an extent as it may deem necessary, to

824 determine whether the pesticides or persons exercising control
825 over the pesticides are in compliance with the provisions of
826 this part ~~chapter~~, the rules adopted under this part ~~chapter~~,
827 and the provisions of the pesticide label or labeling.

828 (3) The official analysis shall be made from the official
829 sample. A sealed and identified sample, herein called "official
830 check sample" shall be kept until the analysis on the official
831 sample is completed. However, the registrant may obtain upon
832 request a portion of the official sample. Upon completion of the
833 analysis of the official sample, a true copy of the certificate
834 of analysis shall be mailed to the registrant of the pesticide
835 from whom the official sample was taken and also to the dealer
836 or agent, if any, and consumer, if known. If the official
837 analysis conforms with the provisions of this part ~~chapter~~, the
838 official check sample may be destroyed. If the official analysis
839 does not conform with the provisions of this part ~~chapter~~, the
840 rules adopted under this part ~~chapter~~, and the provisions of the
841 pesticide label or labeling, the official check sample shall be
842 retained for a period of 90 days from the date of the
843 certificate of analysis of the official sample. If within that
844 time the registrant of the pesticide from whom the official
845 sample was taken makes demand for analysis by a referee chemist,
846 a portion of the official check sample sufficient for analysis
847 shall be sent to a referee chemist who is mutually acceptable to
848 the department and the registrant for analysis at the expense of
849 the registrant. Upon completion of the analysis, the referee
850 chemist shall forward to the department and to the registrant a
851 certificate of analysis bearing a proper identification mark or

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

874 (4) If a pesticide or device fails to comply with the
 875 provisions of this part ~~chapter~~ with reference to the ingredient
 876 statement reflecting the composition of the product, as required
 877 on the registration and labeling, and the department
 878 contemplates possible criminal proceedings against the person
 879 responsible because of this violation, the department shall,

880 after due notice, accord the person an informal hearing or an
 881 opportunity to present evidence and opinions, either orally or
 882 in writing, with regard to such contemplated proceedings. If in
 883 the opinion of the department the facts warrant, the department
 884 may refer the facts to the state attorney for the county in
 885 which the violation occurred, with a copy of the results of the
 886 analysis or the examination of such article; provided that
 887 nothing in this part ~~chapter~~ shall be construed as requiring the
 888 department to report for prosecution minor violations whenever
 889 it believes that the public interest will be subserved by a
 890 suitable notice of warning in writing.

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

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

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

901 Section 22. Subsections (2), (3), and (4) of section
 902 487.081, Florida Statutes, are amended to read:

903 487.081 Exemptions.--

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

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

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

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

919 487.091 Tolerances, deficiencies, and penalties.--

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

935 Section 24. Section 487.101, Florida Statutes, is amended
936 to read:

937 487.101 Stop-sale, stop-use, removal, or hold orders.--

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

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

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

960 (4) The owner or custodian, with authorization and
961 supervision of the department, may relabel the pesticide or
962 device so that the label will conform to the product, or

963 transfer and return the product to the manufacturer or supplier
 964 for the purpose of bringing the product in compliance with the
 965 provisions of this part ~~chapter~~.

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

968 487.111 Seizure, condemnation, and sale.--

969 (1) Any lot of pesticide or device not in compliance with
 970 the provisions of this part ~~chapter~~ is subject to seizure on
 971 complaint of the department to the circuit court in the county
 972 in which the pesticide or device is located. In the event the
 973 court finds the pesticide or device in violation of this part
 974 ~~chapter~~ and orders it condemned, it shall be disposed of as the
 975 court may direct; provided that in no instance shall the
 976 disposition of the pesticide or device be ordered by the court
 977 without first giving the owner or custodian an opportunity to
 978 apply to the court for release of the pesticide or device or for
 979 permission to process or relabel it to bring it into compliance
 980 with this part ~~chapter~~.

981 Section 26. Section 487.13, Florida Statutes, is amended
 982 to read:

983 487.13 Cooperation.--The department is authorized and
 984 empowered to cooperate with and enter into agreements with any
 985 other agency of this state, the United States Department of
 986 Agriculture, the United States Environmental Protection Agency,
 987 and any other state or federal agency for the purpose of
 988 carrying out the provisions of this part ~~chapter~~ and securing
 989 uniformity of regulations.

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990 Section 27. Section 487.156, Florida Statutes, is amended
991 to read:

992 487.156 Governmental agencies.--All governmental agencies
993 shall be subject to the provisions of this part ~~chapter~~ and
994 rules adopted under this part ~~chapter~~. Public applicators using
995 or supervising the use of restricted-use pesticides shall be
996 subject to examination as provided in s. 487.044.

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

999 487.159 Damage or injury to property, animal, or person;
1000 mandatory report of damage or injury; time for filing; failure
1001 to file.--

1002 (1) The person claiming damage or injury to property,
1003 animal, or human beings from application of a pesticide shall
1004 file with the department a written statement claiming damages,
1005 on a form prescribed by the department, within 48 hours after
1006 the damage or injury becomes apparent. The statement shall
1007 contain, but shall not be limited to, the name of the person
1008 responsible for the application of the pesticide, the name of
1009 the owner or lessee of the land on which the crop is grown and
1010 for which the damages are claimed, and the date on which it is
1011 alleged that the damages occurred. The department shall
1012 investigate the alleged damages and notify all concerned parties
1013 of its findings. If the findings reveal a violation of the
1014 provisions of this part ~~chapter~~, the department shall determine
1015 an appropriate penalty, as provided in this part ~~chapter~~. The
1016 filing of a statement or the failure to file such a statement
1017 need not be alleged in any complaint which might be filed in a

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1018 | court of law, and the failure to file the statement shall not be
1019 | considered any bar to the maintenance of any criminal or civil
1020 | action.

1021 | Section 29. Section 487.161, Florida Statutes, is amended
1022 | to read:

1023 | 487.161 Exemptions, nonagricultural pest control and
1024 | research.--

1025 | (1) Any person duly licensed or certified under chapter
1026 | 482, or under the supervision of chapter 388, is exempted from
1027 | the licensing provisions of this part ~~chapter~~.

1028 | (2) The use of the antibiotic oxytetracycline
1029 | hydrochloride for the purpose of controlling lethal yellowing is
1030 | exempted from the licensing provisions of this part ~~chapter~~.

1031 | (3) The personnel of governmental, university, or
1032 | industrial research agencies are exempted from the provisions of
1033 | this part ~~chapter~~ when doing applied research within a
1034 | laboratory, but shall comply with all the provisions of this
1035 | part ~~chapter~~ when applying restricted-use pesticides to
1036 | experimental or demonstration plots.

1037 | Section 30. Section 487.163, Florida Statutes, is amended
1038 | to read:

1039 | 487.163 Information; interagency cooperation.--

1040 | (1) The department may, in cooperation with the University
1041 | of Florida or other agencies of government, publish information
1042 | and conduct short courses of instruction in the safe use and
1043 | application of pesticides for the purpose of carrying out the
1044 | provisions of this part ~~chapter~~.

1045 (2) The department may cooperate or enter into formal
1046 agreements with any other agency or educational institution of
1047 this state or its subdivisions or with any agency of any other
1048 state or of the Federal Government for the purpose of carrying
1049 out the provisions of this part ~~chapter~~ and of securing
1050 uniformity of regulations.

1051 Section 31. Subsections (1), (2), and (3) of section
1052 487.171, Florida Statutes, are amended to read:

1053 487.171 Classification of antifouling paint containing
1054 organotin compounds as restricted-use pesticides; prohibition of
1055 distribution and sale.--

1056 (1) The department shall classify antifouling paints
1057 containing organotin compounds having an acceptable release rate
1058 as restricted-use pesticides subject to the requirements of this
1059 part ~~chapter~~. Antifouling paints containing organotin having
1060 acceptable release rates and sold in spray cans of 16 ounces
1061 avoirdupois weight or less for outboard motor or lower unit use
1062 are exempt from the restricted-use pesticide classification
1063 requirement.

1064 (2) The department shall initiate action under chapter
1065 120, to deny or cancel the registration of antifouling paints
1066 containing organotin compounds which do not have an acceptable
1067 release rate or do not meet other criteria established by the
1068 department in accordance with this part ~~chapter~~.

1069 (3) Distribution, sale, and use of antifouling paints
1070 containing organotin compounds with acceptable release rates
1071 shall be limited to dealers and applicators licensed by the
1072 department in accordance with this part ~~chapter~~, to distribute,

1073 | sell, or use restricted-use pesticides. Such paint may be
 1074 | applied only by licensed applicators and may be applied only to
 1075 | vessels which exceed 25 meters in length or which have aluminum
 1076 | hulls.

1077 | Section 32. Section 487.175, Florida Statutes, is amended
 1078 | to read:

1079 | 487.175 Penalties; administrative fine; injunction.--

1080 | (1) In addition to any other penalty provided in this part
 1081 | ~~chapter~~, when the department finds any person, applicant, or
 1082 | licensee has violated any provision of this part ~~chapter~~ or rule
 1083 | adopted under this part ~~chapter~~, it may enter an order imposing
 1084 | any one or more of the following penalties:

1085 | (a) Denial of an application for licensure.

1086 | (b) Revocation or suspension of a license.

1087 | (c) Issuance of a warning letter.

1088 | (d) Placement of the licensee on probation for a specified
 1089 | period of time and subject to conditions the department may
 1090 | specify by rule, including requiring the licensee to attend
 1091 | continuing education courses, to demonstrate competency through
 1092 | a written or practical examination, or to work under the direct
 1093 | supervision of another licensee.

1094 | (e) Imposition of an administrative fine not to exceed
 1095 | \$10,000 for each violation. When imposing any fine under this
 1096 | paragraph, the department shall consider the degree and extent
 1097 | of harm caused by the violation, the cost of rectifying the
 1098 | damage, the amount of money the violator benefited from by
 1099 | noncompliance, whether the violation was committed willfully,
 1100 | and the compliance record of the violator.

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1101 (2) Any person who violates any provision of this part
 1102 ~~chapter~~ or rules adopted pursuant thereto commits a misdemeanor
 1103 of the second degree and upon conviction is punishable as
 1104 provided in ss. 775.082 and 775.083. For a subsequent violation,
 1105 such person commits a misdemeanor of the first degree and upon
 1106 conviction is punishable as provided in ss. 775.082 and 775.083.

1107 (3) In addition to the remedies provided in this part
 1108 ~~chapter~~ and notwithstanding the existence of any adequate remedy
 1109 at law, the department may bring an action to enjoin the
 1110 violation or threatened violation of any provision of this part
 1111 ~~chapter~~, or rule adopted under this part ~~chapter~~, in the circuit
 1112 court of the county in which the violation occurred or is about
 1113 to occur. Upon the department's presentation of competent and
 1114 substantial evidence to the court of the violation or threatened
 1115 violation, the court shall immediately issue the temporary or
 1116 permanent injunction sought by the department. The injunction
 1117 shall be issued without bond. A single act in violation of any
 1118 provision of this part ~~chapter~~ shall be sufficient to authorize
 1119 the issuance of an injunction.

1120 Section 33. Subsection (1) of section 403.088, Florida
 1121 Statutes, is amended to read:

1122 403.088 Water pollution operation permits; conditions.--

1123 (1) No person, without written authorization of the
 1124 department, shall discharge into waters within the state any
 1125 waste which, by itself or in combination with the wastes of
 1126 other sources, reduces the quality of the receiving waters below
 1127 the classification established for them. However, this section
 1128 shall not be deemed to prohibit the application of pesticides to

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1129 | waters in the state for the control of insects, aquatic weeds,
 1130 | or algae, provided the application is performed pursuant to a
 1131 | program approved by the Department of Health, in the case of
 1132 | insect control, or the department, in the case of aquatic weed
 1133 | or algae control. The department is directed to enter into
 1134 | interagency agreements to establish the procedures for program
 1135 | approval. Such agreements shall provide for public health,
 1136 | welfare, and safety, as well as environmental factors. Approved
 1137 | programs must provide that only chemicals approved for the
 1138 | particular use by the United States Environmental Protection
 1139 | Agency or by the Department of Agriculture and Consumer Services
 1140 | may be employed and that they be applied in accordance with
 1141 | registered label instructions, state standards for such
 1142 | application, and the provisions of the Florida Pesticide Law,
 1143 | part I of chapter 487.

1144 | Section 34. Subsection (1) of section 482.242, Florida
 1145 | Statutes, is amended to read:

1146 | 482.242 Preemption.--

1147 | (1) This chapter is intended as comprehensive and
 1148 | exclusive regulation of pest control in this state. The
 1149 | provisions of this chapter preempt to the state all regulation
 1150 | of the activities and operations of pest control services,
 1151 | including the pesticides used pursuant to labeling and
 1152 | registration approved under part I of chapter 487. No local
 1153 | government or political subdivision of the state may enact or
 1154 | enforce an ordinance that regulates pest control, except that
 1155 | the preemption in this section does not prohibit a local

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1156 government or political subdivision from enacting an ordinance
1157 regarding any of the following:

1158 (a) Local occupational licenses adopted pursuant to
1159 chapter 205.

1160 (b) Land development regulations adopted pursuant to
1161 chapter 163 which include regulation of any aspect of
1162 development, including a subdivision, building construction,
1163 sign regulation or any other regulation concerning the
1164 development of land, or landscaping or tree protection
1165 ordinances which do not include pesticide application
1166 restrictions.

1167 (c) Regulations that:

1168 1. Require, for multicomplex dwellings in excess of 10
1169 units, annual termite inspections for termite activity or
1170 damage, including Formosan termites, which must be performed by
1171 a person licensed under this chapter.

1172 2. Require pest control treatments of structures that have
1173 termite activity or damage which must be performed by a person
1174 licensed under this chapter.

1175 3. Require property owners or other persons to obtain
1176 inspections or pest control treatments performed by a person
1177 licensed under this chapter.

1178
1179 An ordinance by a local government or political subdivision
1180 which requires an annual inspection or pest control treatment
1181 must conform to current law.

1182 (d) Protection of wellhead protection areas and high
1183 recharge areas.

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1184 (e) Hazardous materials reporting as set forth in part II
1185 of chapter 252, storage, and containment including as relating
1186 to stormwater management.

1187 (f) Hazardous material unlawful discharge and disposal.

1188 (g) Hazardous materials remediation.

1189 Section 35. Paragraph (x) of subsection (1) of section
1190 500.03, Florida Statutes, is amended to read:

1191 500.03 Definitions; construction; applicability.--

1192 (1) For the purpose of this chapter, the term:

1193 (x) "Pesticide chemical" means any substance which, alone,
1194 in chemical combination, or in formulation with one or more
1195 other substances is a "pesticide" within the meaning of the
1196 Florida Pesticide Law, part I of chapter 487, and which is used
1197 in the production, storage, or transportation of raw
1198 agricultural commodities.

1199 Section 36. Subsections (1) and (6) of section 570.44,
1200 Florida Statutes, are amended to read:

1201 570.44 Division of Agricultural Environmental Services;
1202 powers and duties.--The duties of the Division of Agricultural
1203 Environmental Services include, but are not limited to:

1204 (1) Inspecting and drawing samples of: commercial feeds
1205 offered for sale in this state and enforcing those provisions of
1206 chapter 580 authorized by the department; seeds offered for sale
1207 in this state and enforcing those provisions of chapter 578
1208 authorized by the department; certified seed grown in this
1209 state; fertilizers offered for sale in this state and enforcing
1210 those provisions of chapter 576 authorized by the department;
1211 and pesticides offered for sale in this state, and soil and

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1212 water in this state for the presence of pesticides, and
1213 enforcing those provisions of chapter part I of 487 authorized
1214 by the department.

1215 (6) Analyzing samples of pesticide formulations offered
1216 for sale in this state and tank mix, soil, water, and other
1217 environmental samples related to pesticide use investigations,
1218 as required under part I of chapter 487.

1219 Section 37. In editing manuscript for the next edition of
1220 the official Florida Statutes, the Division of Statutory
1221 Revision shall designate ss. 487.011-487.175, Florida Statutes,
1222 as part I of that chapter and ss. 487.2011-487.2071, Florida
1223 Statutes, as created by this act, as part II of that chapter.

1224 Section 38. This act shall take effect July 1, 2004.