

CHAMBER ACTION

1 The State Resources Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to agriculture; amending s. 193.451, F.S.;
7 clarifying the value for purpose of assessment for ad
8 valorem taxes of certain property leased by the Department
9 of Agriculture and Consumer Services; providing intent for
10 retroactive application; amending s. 212.02, F.S.;
11 revising definitions relating to farm equipment; amending
12 s. 212.08, F.S.; conforming terminology; amending ss.
13 372.921 and 372.922, F.S.; conforming provisions relating
14 to regulatory authority over the possession, control,
15 care, and maintenance of bison; creating s. 450.175, F.S.;
16 providing a part title; repealing s. 450.211, F.S.,
17 relating to the advisory committee for the Legislative
18 Commission on Migrant Labor; amending s. 487.2031, F.S.;
19 revising definition of the term "material safety data
20 sheet" for purposes of the Florida Agricultural Worker
21 Safety Act; creating s. 487.2042, F.S.; providing for
22 investigation of complaints; providing criteria for the
23 commencement of an investigation; providing for exemption

24 | from civil liability under certain circumstances;
 25 | providing penalties for making a false complaint; amending
 26 | s. 502.014, F.S.; deleting a duty of the department
 27 | relating to issuance of a temporary marketing permit for
 28 | milk and milk products and a fee therefor; amending s.
 29 | 502.091, F.S.; deleting reference to a milk type no longer
 30 | produced; amending s. 503.011, F.S.; updating a reference
 31 | in the definition of "frozen desserts"; amending s.
 32 | 531.39, F.S.; deleting an outdated reference relating to
 33 | state standards for weights and measures; amending s.
 34 | 531.47, F.S.; revising provisions relating to packages on
 35 | which information is required; amending s. 531.49, F.S.;
 36 | revising provisions relating to advertising packaged
 37 | commodities; amending s. 570.07, F.S.; clarifying the
 38 | power of the department relating to standards and fines;
 39 | providing an additional power of the department; creating
 40 | s. 570.076, F.S.; authorizing the department to adopt
 41 | rules establishing the Environmental Stewardship
 42 | Certification Program; providing program standards;
 43 | providing requirements for receipt of an agricultural
 44 | certification; authorizing the Soil and Water Conservation
 45 | Council to develop and recommend additional criteria;
 46 | authorizing the department and the Institute of Food and
 47 | Agricultural Sciences at the University of Florida to
 48 | develop, deliver, and certify completion of a curriculum;
 49 | authorizing agreements with third-party providers to
 50 | administer or implement the program; amending s. 570.9135,
 51 | F.S.; correcting a reference; amending s. 570.952, F.S.;

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52 | revising the membership of the Florida Agriculture Center
53 | and Horse Park Authority; providing criteria for
54 | expiration of terms; deleting requirement of submission of
55 | information to the Legislature; amending s. 581.011, F.S.;
56 | defining the term "invasive plant"; amending s. 581.083,
57 | F.S.; prohibiting the cultivation of nonnative plants for
58 | purposes of fuel production or purposes other than
59 | agriculture in plantings greater than a specified size,
60 | except under a special permit issued by the department;
61 | providing an exemption; requiring application for a
62 | special permit and a fee therefor; requiring an applicant
63 | to show proof of security through a bond or certificate of
64 | deposit; defining the term "certificate of deposit";
65 | requiring removal and destruction of plants under certain
66 | circumstances; specifying circumstances under which the
67 | department may issue a final order for plant removal and
68 | destruction; requiring reimbursement of costs and expenses
69 | for plant removal and destruction by the department;
70 | providing requirements for maintenance of a bond or
71 | certificate of deposit by a permit holder; providing
72 | requirements relating to assignment and cancellation of a
73 | bond or certificate of deposit; authorizing requirement
74 | for an annual bond or certificate of deposit and an
75 | increase or decrease in the amount of security required;
76 | authorizing the department to verify statements and
77 | accounts with respect to cultivated acreage; providing for
78 | suspension or revocation of a special permit under certain
79 | circumstances; amending s. 585.002, F.S.; providing for

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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80 department regulatory authority over the possession,
 81 control, care, and maintenance of bison; providing an
 82 exception; amending s. 590.125, F.S.; clarifying liability
 83 with respect to prescribed burning; providing for obsolete
 84 agricultural equipment to be assessed at its salvage value
 85 for purposes of ad valorem taxation; defining the term
 86 "agricultural equipment"; providing a procedure for a
 87 taxpayer to claim the right of assessment; authorizing the
 88 property appraiser to require information establishing a
 89 taxpayer's right to the classification; providing
 90 severability; providing an effective date.

91

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

93

94 Section 1. Subsection (3) is added to section 193.451,
 95 Florida Statutes, to read:

96 193.451 Annual growing of agricultural crops, nonbearing
 97 fruit trees, nursery stock; taxability.--

98 (3) Personal property leased or subleased by the
 99 Department of Agriculture and Consumer Services and utilized in
 100 the inspection, grading, or classification of citrus fruit shall
 101 be deemed to have value for purposes of assessment for ad
 102 valorem property taxes no greater than its market value as
 103 salvage. It is the expressed intent of the Legislature that this
 104 subsection shall have retroactive application to December 31,
 105 2003.

106 Section 2. Subsections (30) through (34) of section
 107 212.02, Florida Statutes, are amended to read:

108 212.02 Definitions.--The following terms and phrases when
109 used in this chapter have the meanings ascribed to them in this
110 section, except where the context clearly indicates a different
111 meaning:

112 (30) "Power ~~Self-propelled~~ farm equipment" means moving or
113 stationary equipment that contains within itself the means for
114 its own propulsion or power and, ~~including, but not limited to,~~
115 ~~tractors.~~

116 ~~(31) "Power-drawn farm equipment" means equipment that is~~
117 ~~pulled, dragged, or otherwise attached to self-propelled~~
118 ~~equipment, including, but not limited to, disks, harrows, hay~~
119 ~~balers, and mowers.~~

120 ~~(32) "Power-driven farm equipment" means moving or~~
121 stationary equipment that is dependent upon an external power
122 source to perform its functions ~~function, including, but not~~
123 ~~limited to, conveyors, augers, feeding systems, and pumps.~~

124 ~~(31)~~~~(33)~~ "Forest" means the land stocked by trees of any
125 size used in the production of forest products, or formerly
126 having such tree cover, and not currently developed for
127 nonforest use.

128 ~~(32)~~~~(34)~~ "Agricultural production" means the production of
129 plants and animals useful to humans, including the preparation,
130 planting, cultivating, or harvesting of these products or any
131 other practices necessary to accomplish production through the
132 harvest phase, and includes aquaculture, horticulture,
133 floriculture, viticulture, forestry, dairy, livestock, poultry,
134 bees, and any and all forms of farm products and farm
135 production.

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136 Section 3. Subsection (3) of section 212.08, Florida
137 Statutes, is amended to read:

138 212.08 Sales, rental, use, consumption, distribution, and
139 storage tax; specified exemptions.--The sale at retail, the
140 rental, the use, the consumption, the distribution, and the
141 storage to be used or consumed in this state of the following
142 are hereby specifically exempt from the tax imposed by this
143 chapter.

144 (3) EXEMPTIONS, PARTIAL; CERTAIN FARM EQUIPMENT.--There
145 shall be taxable at the rate of 2.5 percent the sale, rental,
146 lease, use, consumption, or storage for use in this state of
147 power ~~self-propelled, power-drawn, or power-driven~~ farm
148 equipment used exclusively on a farm or in a forest in the
149 agricultural production of crops or products as produced by
150 those agricultural industries included in s. 570.02(1), or for
151 fire prevention and suppression work with respect to such crops
152 or products. Harvesting may not be construed to include
153 processing activities. This exemption is not forfeited by moving
154 farm equipment between farms or forests. However, this exemption
155 shall not be allowed unless the purchaser, renter, or lessee
156 signs a certificate stating that the farm equipment is to be
157 used exclusively on a farm or in a forest for agricultural
158 production or for fire prevention and suppression, as required
159 by this subsection. Possession by a seller, lessor, or other
160 dealer of a written certification by the purchaser, renter, or
161 lessee certifying the purchaser's, renter's, or lessee's
162 entitlement to an exemption permitted by this subsection
163 relieves the seller from the responsibility of collecting the

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164 tax on the nontaxable amounts, and the department shall look
165 solely to the purchaser for recovery of such tax if it
166 determines that the purchaser was not entitled to the exemption.

167 Section 4. Subsection (8) of section 372.921, Florida
168 Statutes, is amended to read:

169 372.921 Exhibition or sale of wildlife.--

170 (8) This section shall not apply to the possession,
171 control, care, and maintenance of ostriches, emus, ~~and~~ rheas,
172 and bison domesticated and confined for commercial farming
173 purposes, except those kept and maintained on hunting preserves
174 or game farms or primarily for exhibition purposes in zoos,
175 carnivals, circuses, and other such establishments where such
176 species are kept primarily for display to the public.

177 Section 5. Subsection (6) of section 372.922, Florida
178 Statutes, is amended to read:

179 372.922 Personal possession of wildlife.--

180 (6) This section shall not apply to the possession,
181 control, care, and maintenance of ostriches, emus, ~~and~~ rheas,
182 and bison domesticated and confined for commercial farming
183 purposes, except those kept and maintained on hunting preserves
184 or game farms or primarily for exhibition purposes in zoos,
185 carnivals, circuses, and other such establishments where such
186 species are kept primarily for display to the public.

187 Section 6. Section 450.175, Florida Statutes, is created
188 to read:

189 450.175 Part title.--Part II of this chapter may be cited
190 as the "Alfredo Bahena Act."

191 Section 7. Section 450.211, Florida Statutes, is repealed.

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192 Section 8. Subsection (7) of section 487.2031, Florida
193 Statutes, is amended to read:

194 487.2031 Definitions.--For the purposes of this part, the
195 term:

196 (7) "Material safety data sheet" means written,
197 electronic, or printed material concerning an agricultural
198 pesticide that sets forth the following information:

199 (a) The chemical name and the common name of the
200 agricultural pesticide.

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

203 1. The potential for fire, explosions, corrosivity, and
204 reactivity.

205 2. The known acute health effects and chronic health
206 effects of exposure to the agricultural pesticide, including
207 those medical conditions that are generally recognized as being
208 aggravated by exposure to the agricultural pesticide.

209 3. The primary routes of entry and symptoms of
210 overexposure.

211 (c) The proper handling practices, necessary personal
212 protective equipment, and other proper or necessary safety
213 precautions in circumstances that involve the use of or exposure
214 to the agricultural pesticide, including appropriate emergency
215 treatment in case of overexposure.

216 (d) The emergency procedures for spills, fire, disposal,
217 and first aid.

218 (e) A description of the known specific potential health
219 risks posed by the agricultural pesticide, which is written in

220 lay terms and is intended to alert any person who reads the
221 information.

222 (f) The year and month, if available, that the information
223 was compiled and the name, address, and emergency telephone
224 number of the manufacturer responsible for preparing the
225 information.

226 Section 9. Section 487.2042, Florida Statutes, is created
227 to read:

228 487.2042 Submission and investigation of complaints.--

229 (1) The department shall cause to be investigated any
230 complaint which is filed under this part if the complaint is in
231 writing, signed by the complainant, and is legally sufficient. A
232 complaint is legally sufficient if it contains ultimate facts
233 which show that a violation of this part, or the rules adopted
234 under this part, may have occurred. In order to determine legal
235 sufficiency, the department may require supporting information
236 or documentation. The department may investigate an anonymous
237 complaint or a complaint made by a confidential informant if the
238 complaint is in writing and is legally sufficient, if the
239 alleged violation of law or rules is substantial, and if the
240 department has reason to believe, after preliminary inquiry,
241 that the alleged violations in the complaint are true. The
242 department may initiate an investigation if it has reasonable
243 cause to believe that a person has violated this part or the
244 rules adopted under this part.

245 (2) A privilege against civil liability is hereby granted
246 to any complainant or any witness with regard to information
247 furnished with respect to any investigation or proceeding

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248 pursuant to this part, unless the complainant or witness acted
 249 in bad faith or with malice in providing such information.

250 (3) Whoever knowingly makes a false complaint in writing
 251 under this part commits a misdemeanor of the second degree,
 252 punishable as provided in s. 775.082, s. 775.083, or s. 837.06.

253 Section 10. Section 502.014, Florida Statutes, is amended
 254 to read:

255 502.014 Powers and duties.--

256 (1) The department shall administer and enforce all
 257 regulatory laws currently in effect governing:

258 (a) The production, processing, and distribution of milk
 259 and milk products.

260 (b) The sanitation and sanitary practices of
 261 establishments where food and drink, including milk and milk
 262 products, are sold for consumption on the premises, except food
 263 service establishments regulated under chapters 381 and 509.

264 (c) The sanitary and healthful condition of the food and
 265 drink sold or offered for sale by establishments under the
 266 department's jurisdiction pursuant to paragraph (b).

267 (d) The laboratory work of testing and analyzing milk and
 268 milk products.

269 (2)(a) The department shall conduct onsite inspections of
 270 dairy farms and milk plants, and collect test samples of milk
 271 and milk products, as required by this chapter.

272 (b) The department shall designate employees who shall be
 273 certified by the United States Food and Drug Administration as
 274 state milk sanitation rating officers, sampling surveillance
 275 officers, and laboratory evaluation officers in accordance with

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276 | the requirements published in "Methods of Making Sanitation
 277 | Ratings of Milk Supplies," "Evaluation of Milk Laboratories,"
 278 | and "Procedures Governing the Cooperative State-Public Health
 279 | Service/Food and Drug Administration Program for Certification
 280 | of Interstate Milk Shippers," respectively, as adopted by
 281 | department rule. These officers shall conduct routine sanitation
 282 | compliance survey ratings of milk producers, milk plants,
 283 | laboratories, receiving stations, transfer stations, and
 284 | manufacturers of single-service containers for milk and milk
 285 | products. These ratings shall be made in accordance with the
 286 | recommendations of the United States Food and Drug
 287 | Administration published in Standard Methods for the Examination
 288 | of Dairy Products.

289 | (3) The department shall manage a program to issue permits
 290 | to persons who test milk or milk products for milkfat content by
 291 | weight, volume, chemical, electronic, or other means when the
 292 | result of such test is used as a basis for payment for the milk
 293 | or milk products.

294 | (4) The department shall define by rule "cottage cheese,"
 295 | "dry-curd cottage cheese," and "lowfat cottage cheese." The
 296 | department shall periodically update these definitions to
 297 | maintain conformity with the federal definitions.

298 | ~~(5)(a) The department shall adopt criteria for issuance of~~
 299 | ~~a state temporary marketing permit for milk and milk products~~
 300 | ~~that do not conform to existing standards and definitions.~~

301 | ~~(b) The department shall establish a fee, not to exceed~~
 302 | ~~\$100, for the issuance of a state temporary marketing permit or~~
 303 | ~~the use of a federal permit in the state. The fee shall cover~~

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304 | ~~all costs of issuing the state permit or processing the federal~~
305 | ~~permit.~~

306 | (5)~~(6)~~ The department may impound any reconstituted or
307 | recombined milk or any adulterated or misbranded milk or milk
308 | product to prevent its use for human consumption, and may
309 | dispose of it in a manner that does not create a nuisance.

310 | (6)~~(7)~~ The department has authority to adopt rules
311 | pursuant to ss. 120.536(1) and 120.54 to implement and enforce
312 | the provisions of this chapter. In adopting these rules, the
313 | department shall be guided by and may conform to the definitions
314 | and standards of the administrative procedures and provisions of
315 | the pasteurized milk ordinance. The rules shall include, but are
316 | not limited to:

317 | (a) Standards for milk and milk products.

318 | (b) Provisions for the production, transportation,
319 | processing, handling, sampling, examination, grading, labeling,
320 | and sale of all milk and milk products and imitation and
321 | substitute milk and milk products sold for public consumption in
322 | this state.

323 | (c) Provisions for the inspection of dairy herds, dairy
324 | farms, and milk plants.

325 | (d) Provisions for the issuance and revocation of permits
326 | issued by the department pursuant to this chapter.

327 | (7)~~(8)~~ The department shall not conduct routine tests or
328 | inspections on raw milk that is shipped from outside the state.
329 | Nothing in this subsection shall be construed to limit the
330 | authority of the department to review industry records or sample

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331 milk at any stage of production, processing, or distribution in
332 cases of suspected hazard to public health.

333 Section 11. Subsection (1) of section 502.091, Florida
334 Statutes, is amended to read:

335 502.091 Milk and milk products which may be sold.--

336 (1) Only Grade A pasteurized milk and milk products ~~or~~
337 ~~certified pasteurized milk~~ shall be sold to the final consumer
338 or to restaurants, soda fountains, grocery stores, or similar
339 establishments.

340 (a) In an emergency, however, the department may authorize
341 the sale of reconstituted pasteurized milk products, or
342 pasteurized milk and milk products that have not been graded or
343 the grade of that is unknown, in which case such milk and milk
344 products shall be appropriately labeled, as determined by the
345 department.

346 (b) If the department determines that milk is fit for
347 human consumption even though it is less than Grade A because
348 the producer failed to comply with the sanitation or bacterial
349 standards defined in this chapter, or if any specific shipment
350 of milk fails to comply with standards of the pasteurized milk
351 ordinance, the department may issue a permit allowing the milk
352 to be used in ungraded products, such as frozen desserts, which
353 are being processed by such milk plant. During processing of
354 such milk, it shall be pasteurized at a temperature of at least
355 175° F. for at least 15 seconds or at least 160° F. for at least
356 30 minutes.

357 Section 12. Subsection (2) of section 503.011, Florida
358 Statutes, is amended to read:

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359 503.011 Definitions.--The following definitions shall
360 apply in the interpretation and enforcement of this chapter:

361 (2) "Frozen desserts" means the foods which conform to the
362 provisions of "definitions and standards of identity for frozen
363 desserts," United States Food and Drug Administration, 21 C.F.R.
364 part 135 (2004) ~~(1990)~~, and foods, defined by rule of the
365 department, which resemble but do not conform to federal
366 definitions. The term also includes, but is not limited to,
367 "quiescently frozen confection," "quiescently frozen dairy
368 confection," and "frozen dietary dairy dessert and frozen
369 dietary dessert."

370 Section 13. Section 531.39, Florida Statutes, is amended
371 to read:

372 531.39 State standards.--Weights and measures that are
373 traceable to the United States prototype standards supplied by
374 the Federal Government ~~(Pub. L. No. 89-164, 1965)~~, or approved
375 as being satisfactory by the National Institute of Standards and
376 Technology, shall be the state primary standards of weights and
377 measures, and shall be maintained in such calibration as
378 prescribed by the National Institute of Standards and
379 Technology. In addition, there shall be provided by the state
380 such secondary standards as may be necessary to carry out the
381 provisions of this chapter. The secondary standards shall be
382 verified upon their initial receipt and as often thereafter as
383 deemed necessary by the department.

384 Section 14. Section 531.47, Florida Statutes, is amended
385 to read:

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386 531.47 Information required on packages.--Except as
387 otherwise provided in this chapter or by rules adopted pursuant
388 thereto, any package ~~introduced in intrastate commerce,~~ kept for
389 the purpose of sale, or offered or exposed for sale ~~in~~
390 ~~intrastate commerce~~ shall bear on the outside of the package a
391 definite, plain, and conspicuous declaration of:

392 (1) The identity of the commodity in the package, unless
393 the same can easily be identified through the wrapper or
394 container.

395 (2) The net quantity of contents in terms of weight,
396 measure, or count.

397 (3) The name and place of business of the manufacturer,
398 packer, or distributor, in the case of any package kept or
399 offered or exposed for sale or sold in any place other than on
400 the premises where packed.

401 Section 15. Section 531.49, Florida Statutes, is amended
402 to read:

403 531.49 Advertising packages for sale.--Whenever a packaged
404 commodity is advertised in any manner with the retail price
405 stated, there shall be closely and conspicuously associated with
406 the retail price a declaration of quantity as is required by law
407 or rule to appear on the package. ~~When a dual declaration is~~
408 ~~required, only the declaration that sets forth the quantity in~~
409 ~~terms of the smaller unit of weight or measure need appear in~~
410 ~~the advertisement.~~

411 Section 16. Subsection (16) of section 570.07, Florida
412 Statutes, is amended, and subsection (41) is added to said
413 section, to read:

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414 570.07 Department of Agriculture and Consumer Services;
 415 functions, powers, and duties.--The department shall have and
 416 exercise the following functions, powers, and duties:
 417 (16) To enforce the state laws and rules relating to:
 418 (a) Fruit and vegetable inspection and grading;
 419 (b) Pesticide spray, residue inspection, and removal;
 420 (c) Registration, labeling, inspection, and analysis of
 421 commercial stock feeds and commercial fertilizers;
 422 (d) Classification, inspection, and sale of poultry and
 423 eggs;
 424 (e) Registration, inspection, and analysis of gasolines
 425 and oils;
 426 (f) Registration, labeling, inspection, and analysis of
 427 pesticides;
 428 (g) Registration, labeling, inspection, germination
 429 testing, and sale of seeds, both common and certified;
 430 (h) Weights, measures, and standards;
 431 (i) Foods, as set forth in the Florida Food Safety Act;
 432 (j) Inspection and certification of honey;
 433 (k) Sale of liquid fuels;
 434 (l) Licensing of dealers in agricultural products;
 435 (m) Administration and enforcement of all regulatory
 436 legislation applying to milk and milk products, ice cream, and
 437 frozen desserts;
 438 (n) Recordation and inspection of marks and brands of
 439 livestock; and
 440 (o) All other regulatory laws relating to agriculture.
 441

442 Notwithstanding any other law or local ordinance to the
 443 contrary, and to ensure uniform health and safety standards, the
 444 adoption of standards and fines in the subject areas of
 445 paragraphs (a)-(o) is expressly preempted to the state and the
 446 department. Any local government enforcing the subject areas of
 447 paragraphs (a)-(o) must use the standards and fines set forth in
 448 the pertinent statutes or any rules adopted by the department
 449 pursuant to those statutes.

450 (41) Notwithstanding any other provision of law, to use
 451 any program for on-line procurement of commodities or
 452 contractual services, but not be obligated to do so.

453 Section 17. Section 570.076, Florida Statutes, is created
 454 to read:

455 570.076 Environmental Stewardship Certification
 456 Program.--The department may, by rule, establish the
 457 Environmental Stewardship Certification Program consistent with
 458 this section. A rule adopted under this section must be
 459 developed in consultation with state universities, agricultural
 460 organizations, and other interested parties.

461 (1) The program must:

462 (a) Be integrated, to the maximum extent practicable, with
 463 programs that are sponsored by agricultural organizations or
 464 state universities.

465 (b) Be designed to recognize and promote agricultural
 466 operations or homeowner practices that demonstrate exemplary
 467 resource management that is related to environmental
 468 stewardship.

469 (c) Include a process to periodically review a
 470 certification to ensure compliance with the program
 471 requirements, including implementation by the certificateholder.

472 (d) Require periodic continuing education in relevant
 473 environmental stewardship issues in order to maintain
 474 certification.

475 (2) The department shall provide an agricultural
 476 certification under this program for implementation of one or
 477 more of the following criteria:

478 (a) A voluntary agreement between an agency and an
 479 agricultural producer for environmental improvement or water-
 480 resource protection.

481 (b) A conservation plan that meets or exceeds the
 482 requirements of the United States Department of Agriculture.

483 (c) Best management practices adopted by rule pursuant to
 484 s. 403.067(7)(d) or s. 570.085(2).

485 (3) The Soil and Water Conservation Council created by s.
 486 582.06 may develop and recommend to the department for adoption
 487 additional criteria for receipt of an agricultural certification
 488 which may include, but not be limited to:

489 (a) Comprehensive management of all on-farm resources.

490 (b) Promotion of environmental awareness and responsible
 491 resource stewardship in agricultural or urban communities.

492 (c) Completion of a curriculum of study that is related to
 493 environmental issues and regulation.

494 (4) If needed, the department and the Institute of Food
 495 and Agricultural Sciences at the University of Florida may
 496 jointly develop a curriculum that provides instruction

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497 concerning environmental issues pertinent to agricultural
 498 certification and deliver such curriculum to, and certify its
 499 completion by, any person seeking certification or to maintain
 500 certification.

501 (5) The department may enter into agreements with third-
 502 party providers to administer or implement all or part of the
 503 program.

504 Section 18. Paragraph (a) of subsection (4) of section
 505 570.9135, Florida Statutes, is amended to read:

506 570.9135 Beef Market Development Act; definitions; Florida
 507 Beef Council, Inc., creation, purposes, governing board, powers,
 508 and duties; referendum on assessments imposed on gross receipts
 509 from cattle sales; payments to organizations for services;
 510 collecting and refunding assessments; vote on continuing the
 511 act; council bylaws.--

512 (4) FLORIDA BEEF COUNCIL, INC.; CREATION; PURPOSES.--

513 (a) There is created the Florida Beef Council, Inc., a
 514 not-for-profit corporation organized under the laws of this
 515 state and operating as a direct-support ~~direct-service~~
 516 organization of the department.

517 Section 19. Subsections (2) and (5) of section 570.952,
 518 Florida Statutes, are amended to read:

519 570.952 Florida Agriculture Center and Horse Park
 520 Authority.--

521 (2) The authority shall be composed of 21 members
 522 appointed by the commissioner.

523 ~~(a) Members shall include:~~

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- 524 ~~1. Three citizens at large, who shall represent the views~~
 525 ~~of the general public toward agriculture and equine activities~~
 526 ~~in the state.~~
- 527 ~~2. One representative from the Department of Agriculture~~
 528 ~~and Consumer Services.~~
- 529 ~~3. One representative from Enterprise Florida, Inc.~~
- 530 ~~4. One representative from the Department of Environmental~~
 531 ~~Protection, Office of Greenways and Trails.~~
- 532 ~~5. One member of the Ocala/Marion County Chamber of~~
 533 ~~Commerce.~~
- 534 ~~6. Two representatives of the tourism or hospitality~~
 535 ~~industry.~~
- 536 ~~7. Three representatives of the commercial agriculture~~
 537 ~~industry.~~
- 538 ~~8. Three representatives from recognized horse breed~~
 539 ~~associations.~~
- 540 ~~9. One representative of the veterinary industry.~~
- 541 ~~10. Three representatives from the competitive equine~~
 542 ~~industry.~~
- 543 ~~11. One representative from the horse pleasure and trail~~
 544 ~~riding industry.~~
- 545 ~~12. One representative recommended by the Board of County~~
 546 ~~Commissioners of Marion County.~~
- 547 (a)~~(b)~~ Initially, the commissioner shall appoint 11
 548 members for 4-year terms and 10 members for 2-year terms.
 549 Thereafter, each member shall be appointed for a term of 4 years
 550 from the date of appointment, except that a vacancy shall be
 551 filled by appointment for the remainder of the term.

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552 ~~(b)(e)~~ Any member of the authority who fails to attend
 553 three consecutive authority meetings without good cause shall be
 554 deemed to have resigned from the authority. ~~The commissioner~~
 555 ~~shall appoint a person representing the same interest or trade~~
 556 ~~as the resigning member. Current members shall continue to serve~~
 557 ~~until successors are appointed.~~

558 (c) Terms for members appointed prior to July 1, 2005,
 559 shall expire on July 1, 2005.

560 ~~(5) The commissioner shall submit information annually to~~
 561 ~~the Speaker of the House of Representatives and the President of~~
 562 ~~the Senate reporting the activities of the Florida Agriculture~~
 563 ~~Center and Horse Park Authority and the progress of the Florida~~
 564 ~~Agriculture Center and Horse Park, including, but not limited~~
 565 ~~to, pertinent planning, budgeting, and operational information~~
 566 ~~concerning the authority.~~

567 Section 20. Subsections (15) through (29) of section
 568 581.011, Florida Statutes, are renumbered as subsections (16)
 569 through (30), respectively and a new subsection (15) is added to
 570 said section to read:

571 581.011 Definitions.--As used in this chapter:

572 (15) "Invasive plant" means a naturalized exotic plant
 573 that disrupts naturally occurring native plant communities.

574 Section 21. Subsection (4) is added to section 581.083,
 575 Florida Statutes, to read:

576 581.083 Introduction or release of plant pests, noxious
 577 weeds, or organisms affecting plant life; cultivation of
 578 nonnative plants; special permit and security required.--

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579 (4) A person may not cultivate a nonnative plant,
580 including a genetically engineered plant or a plant that has
581 been introduced, for purposes of fuel production or purposes
582 other than agriculture in plantings greater in size than 2
583 contiguous acres, except under a special permit issued by the
584 department through the division, which is the sole agency
585 responsible for issuing such special permits. Such a permit
586 shall not be required if the department determines, in
587 conjunction with the Institute of Food and Agricultural Sciences
588 at the University of Florida, that the plant is not invasive and
589 subsequently exempts the plant by rule.

590 (a)1. Each application for a special permit must be
591 accompanied by a fee as described in subsection (2) and proof
592 that the applicant has obtained a bond in the form approved by
593 the department and issued by a surety company admitted to do
594 business in this state or a certificate of deposit. The
595 application must include, on a form provided by the department,
596 the name of the applicant and the applicant's address or the
597 address of the applicant's principal place of business; a
598 statement completely identifying the nonnative plant to be
599 cultivated; and a statement of the estimated cost of removing
600 and destroying the plant that is the subject of the special
601 permit and the basis for calculating or determining that
602 estimate. If the applicant is a corporation, partnership, or
603 other business entity, the applicant must also provide in the
604 application the name and address of each officer, partner, or
605 managing agent. The applicant shall notify the department within
606 10 business days of any change of address or change in the

607 principal place of business. The department shall mail all
 608 notices to the applicant's last known address.

609 2. As used in this subsection, the term "certificate of
 610 deposit" means a certificate of deposit at any recognized
 611 financial institution doing business in the United States. The
 612 department may not accept a certificate of deposit in connection
 613 with the issuance of a special permit unless the issuing
 614 institution is properly insured by the Federal Deposit Insurance
 615 Corporation or the Federal Savings and Loan Insurance
 616 Corporation.

617 (b) Upon obtaining a permit, the permitholder may annually
 618 cultivate and maintain the nonnative plants as authorized by the
 619 special permit. If the permitholder ceases to maintain or
 620 cultivate the plants authorized by the special permit, if the
 621 permit expires, or if the permitholder ceases to abide by the
 622 conditions of the special permit, the permitholder shall
 623 immediately remove and destroy the plants that are subject to
 624 the permit, if any remain. The permitholder shall notify the
 625 department of the removal and destruction of the plants within
 626 10 days after such event.

627 (c) If the department:

628 1. Determines that the permitholder is no longer
 629 maintaining or cultivating the plants subject to the special
 630 permit and has not removed and destroyed the plants authorized
 631 by the special permit;

632 2. Determines that the continued maintenance or
 633 cultivation of the plants presents an imminent danger to public
 634 health, safety, or welfare;

635 3. Determines that the permitholder has exceeded the
 636 conditions of the authorized special permit; or
 637 4. Receives a notice of cancellation of the surety bond,
 638
 639 the department may issue an immediate final order, which shall
 640 be immediately appealable or enjoicable as provided by chapter
 641 120, directing the permitholder to immediately remove and
 642 destroy the plants authorized to be cultivated under the special
 643 permit. A copy of the immediate final order shall be mailed to
 644 the permitholder and to the surety company or financial
 645 institution that has provided security for the special permit,
 646 if applicable.
 647 (d) If, upon issuance by the department of an immediate
 648 final order to the permitholder, the permitholder fails to
 649 remove and destroy the plants subject to the special permit
 650 within 60 days after issuance of the order, or such shorter
 651 period as is designated in the order as public health, safety,
 652 or welfare requires, the department may enter the cultivated
 653 acreage and remove and destroy the plants that are the subject
 654 of the special permit. If the permitholder makes a written
 655 request to the department for an extension of time to remove and
 656 destroy the plants that demonstrates specific facts showing why
 657 the plants could not reasonably be removed and destroyed in the
 658 applicable timeframe, the department may extend the time for
 659 removing and destroying plants subject to a special permit. The
 660 reasonable costs and expenses incurred by the department for
 661 removing and destroying plants subject to a special permit shall
 662 be reimbursed to the department by the permitholder within 21

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663 days after the date the permitholder and the surety company or
664 financial institution are served a copy of the department's
665 invoice for the costs and expenses incurred by the department to
666 remove and destroy the cultivated plants, along with a notice of
667 administrative rights, unless the permitholder or the surety
668 company or financial institution object to the reasonableness of
669 the invoice. In the event of an objection, the permitholder or
670 surety company or financial institution is entitled to an
671 administrative proceeding as provided by chapter 120. Upon entry
672 of a final order determining the reasonableness of the incurred
673 costs and expenses, the permitholder shall have 15 days
674 following service of the final order to reimburse the
675 department. Failure of the permitholder to timely reimburse the
676 department for the incurred costs and expenses entitles the
677 department to reimbursement from the applicable bond or
678 certificate of deposit.

679 (e) Each permitholder shall maintain for each separate
680 growing location a bond or a certificate of deposit in an amount
681 determined by the department, but not less than 150 percent of
682 the estimated cost of removing and destroying the cultivated
683 plants. The bond or certificate of deposit may not exceed \$5,000
684 per acre, unless a higher amount is determined by the department
685 to be necessary to protect the public health, safety, and
686 welfare or unless an exemption is granted by the department
687 based on conditions specified in the application which would
688 preclude the department from incurring the cost of removing and
689 destroying the cultivated plants and would prevent injury to the
690 public health, safety, and welfare. The aggregate liability of

691 the surety company or financial institution to all persons for
 692 all breaches of the conditions of the bond or certificate of
 693 deposit may not exceed the amount of the bond or certificate of
 694 deposit. The original bond or certificate of deposit required by
 695 this subsection shall be filed with the department. A surety
 696 company shall give the department 30 days' written notice of
 697 cancellation, by certified mail, in order to cancel a bond.
 698 Cancellation of a bond does not relieve a surety company of
 699 liability for paying to the department all costs and expenses
 700 incurred or to be incurred for removing and destroying the
 701 permitted plants covered by an immediate final order authorized
 702 under paragraph (c). A bond or certificate of deposit must be
 703 provided or assigned in the exact name in which an applicant
 704 applies for a special permit. The penal sum of the bond or
 705 certificate of deposit to be furnished to the department by a
 706 permitholder in the amount specified in this paragraph must
 707 guarantee payment of the costs and expenses incurred or to be
 708 incurred by the department for removing and destroying the
 709 plants cultivated under the issued special permit. The bond or
 710 certificate of deposit assignment or agreement must be upon a
 711 form prescribed or approved by the department and must be
 712 conditioned to secure the faithful accounting for and payment of
 713 all costs and expenses incurred by the department for removing
 714 and destroying all plants cultivated under the special permit.
 715 The bond or certificate of deposit assignment or agreement must
 716 include terms binding the instrument to the Commissioner of
 717 Agriculture. Such certificate of deposit shall be presented with
 718 an assignment of the permitholder's rights in the certificate in

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719 favor of the Commissioner of Agriculture on a form prescribed by
720 the department and with a letter from the issuing institution
721 acknowledging that the assignment has been properly recorded on
722 the books of the issuing institution and will be honored by the
723 issuing institution. Such assignment is irrevocable while a
724 special permit is in effect and for an additional period of 6
725 months after termination of the special permit if operations to
726 remove and destroy the permitted plants are not continuing and
727 if the department's invoice remains unpaid by the permitholder
728 under the issued immediate final order. If operations to remove
729 and destroy the plants are pending, the assignment remains in
730 effect until all plants are removed and destroyed and the
731 department's invoice has been paid. The bond or certificate of
732 deposit may be released by the assignee of the surety company or
733 financial institution to the permitholder, or to the
734 permitholder's successors, assignee, or heirs, if operations to
735 remove and destroy the permitted plants are not pending and no
736 invoice remains unpaid at the conclusion of 6 months after the
737 last effective date of the special permit. The department may
738 not accept a certificate of deposit that contains any provision
739 that would give to any person any prior rights or claim on the
740 proceeds or principal of such certificate of deposit. The
741 department shall determine by rule whether an annual bond or
742 certificate of deposit will be required. The amount of such bond
743 or certificate of deposit shall be increased, upon order of the
744 department, at any time if the department finds such increase to
745 be warranted by the cultivating operations of the permitholder.
746 In the same manner, the amount of such bond or certificate of

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747 deposit may be decreased when a decrease in the cultivating
 748 operations warrants such decrease. This paragraph applies to any
 749 bond or certificate of deposit, regardless of the anniversary
 750 date of its issuance, expiration, or renewal.

751 (f) In order to carry out the purposes of this subsection,
 752 the department or its agents may require from any permitholder
 753 verified statements of the cultivated acreage subject to the
 754 special permit and may review the permitholder's business or
 755 cultivation records at her or his place of business during
 756 normal business hours in order to determine the acreage
 757 cultivated. The failure of a permitholder to furnish such
 758 statement, to make such records available, or to make and
 759 deliver a new or additional bond or certificate of deposit is
 760 cause for suspension of the special permit. If the department
 761 finds such failure to be willful, the special permit may be
 762 revoked.

763 Section 22. Subsection (3) of section 585.002, Florida
 764 Statutes, is amended to read:

765 585.002 Department control; continuance of powers, duties,
 766 rules, orders, etc.--

767 (3) The department, to the exclusion of all other state
 768 agencies, shall have regulatory authority over the possession,
 769 control, care, and maintenance of ostriches, emus, ~~and~~ rheas,
 770 and bison domesticated and confined for commercial farming
 771 purposes, except those kept and maintained on hunting preserves
 772 or game farms or primarily for exhibition purposes in zoos,
 773 carnivals, circuses, and other such establishments where such
 774 species are kept primarily for display to the public.

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775 Section 23. Paragraph (c) of subsection (3) of section
776 590.125, Florida Statutes, is amended to read:

777 590.125 Open burning authorized by the division.--

778 (3) CERTIFIED PRESCRIBED BURNING; LEGISLATIVE FINDINGS AND
779 PURPOSE.--

780 (c) Neither a property owner nor ~~or~~ his or her agent is
781 ~~neither~~ liable pursuant to s. 590.13 for damage or injury caused
782 by the fire or resulting smoke or ~~nor~~ considered to be in
783 violation of subsection (2) for burns conducted in accordance
784 with this subsection unless gross negligence is proven.

785 Section 24. Assessment of obsolete agricultural
786 equipment.--

787 (1) For purposes of assessment for ad valorem property
788 taxes, obsolete agricultural equipment shall be deemed to have a
789 market value no greater than its value for salvage. As used in
790 this section, the term "agricultural equipment" means any
791 equipment that qualifies for the sales tax exemption provided in
792 s. 212.08(3), Florida Statutes, wherever purchased. Agricultural
793 equipment shall be considered obsolete for purposes of this
794 section if it has been discarded, outmoded, fully depreciated
795 over its useful life, or is no longer in general use.

796 (2) Any taxpayer claiming the right of assessment for ad
797 valorem taxes under the provisions of this section shall so
798 state in a return filed as provided by law, giving a brief
799 description of the equipment and its use. The property appraiser
800 may require the taxpayer to produce any additional information
801 as necessary in order to establish the taxpayer's right to have

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802 such property classified as obsolete under this section for
803 purposes of the assessment.

804 Section 25. If any provision of this act or the
805 application thereof to any person or circumstances is held
806 invalid, the invalidity shall not affect other provisions or
807 applications of the act which can be given effect without the
808 invalid provision or application and, to this end, the
809 provisions of this act are declared severable.

810 Section 26. This act shall take effect July 1, 2005.