

1 A bill to be entitled

2 An act relating to agriculture; amending s. 193.451, F.S.;
3 clarifying the value for purpose of assessment for ad
4 valorem taxes of certain property leased by the Department
5 of Agriculture and Consumer Services; providing intent for
6 retroactive application; amending ss. 372.921 and 372.922,
7 F.S.; conforming provisions relating to regulatory
8 authority over the possession, control, care, and
9 maintenance of bison; creating s. 450.175, F.S.; providing
10 a part title; repealing s. 450.211, F.S., relating to the
11 advisory committee for the Legislative Commission on
12 Migrant Labor; amending s. 487.2031, F.S.; revising
13 definition of the term "material safety data sheet" for
14 purposes of the Florida Agricultural Worker Safety Act;
15 creating s. 487.2042, F.S.; providing for investigation of
16 complaints; providing criteria for the commencement of an
17 investigation; providing for exemption from civil
18 liability under certain circumstances; providing penalties
19 for making a false complaint; amending s. 502.014, F.S.;
20 deleting a duty of the department relating to issuance of
21 a temporary marketing permit for milk and milk products
22 and a fee therefor; amending s. 502.091, F.S.; deleting
23 reference to a milk type no longer produced; amending s.
24 503.011, F.S.; updating a reference in the definition of
25 "frozen desserts"; amending s. 531.39, F.S.; deleting an
26 outdated reference relating to state standards for weights
27 and measures; amending s. 531.47, F.S.; revising
28 provisions relating to packages on which information is

Page 1 of 26

29 | required; amending s. 531.49, F.S.; revising provisions
30 | relating to advertising packaged commodities; amending s.
31 | 570.07, F.S.; clarifying the power of the department
32 | relating to standards and fines; providing an additional
33 | power of the department; creating s. 570.076, F.S.;
34 | authorizing the department to adopt rules establishing the
35 | Environmental Stewardship Certification Program; providing
36 | program standards; providing requirements for receipt of
37 | an agricultural certification; authorizing the Soil and
38 | Water Conservation Council to develop and recommend
39 | additional criteria; authorizing the department and the
40 | Institute of Food and Agricultural Sciences at the
41 | University of Florida to develop, deliver, and certify
42 | completion of a curriculum; authorizing agreements with
43 | third-party providers to administer or implement the
44 | program; amending s. 570.9135, F.S.; correcting a
45 | reference; amending s. 570.952, F.S.; revising the
46 | membership of the Florida Agriculture Center and Horse
47 | Park Authority; providing criteria for expiration of
48 | terms; deleting requirement of submission of information
49 | to the Legislature; amending s. 581.011, F.S.; defining
50 | the term "invasive plant"; amending s. 581.083, F.S.;
51 | prohibiting the cultivation of nonnative plants for
52 | purposes of fuel production or purposes other than
53 | agriculture in plantings greater than a specified size,
54 | except under a special permit issued by the department;
55 | providing an exemption; requiring application for a
56 | special permit and a fee therefor; requiring an applicant

57 | to show proof of security through a bond or certificate of
58 | deposit; defining the term "certificate of deposit";
59 | requiring removal and destruction of plants under certain
60 | circumstances; specifying circumstances under which the
61 | department may issue a final order for plant removal and
62 | destruction; requiring reimbursement of costs and expenses
63 | for plant removal and destruction by the department;
64 | providing requirements for maintenance of a bond or
65 | certificate of deposit by a permit holder; providing
66 | requirements relating to assignment and cancellation of a
67 | bond or certificate of deposit; authorizing requirement
68 | for an annual bond or certificate of deposit and an
69 | increase or decrease in the amount of security required;
70 | authorizing the department to verify statements and
71 | accounts with respect to cultivated acreage; providing for
72 | suspension or revocation of a special permit under certain
73 | circumstances; amending s. 585.002, F.S.; providing for
74 | department regulatory authority over the possession,
75 | control, care, and maintenance of bison; providing an
76 | exception; amending s. 590.125, F.S.; clarifying liability
77 | with respect to prescribed burning; providing
78 | severability; providing an effective date.

79 |
80 | Be It Enacted by the Legislature of the State of Florida:

81 |
82 | Section 1. Subsection (3) is added to section 193.451,
83 | Florida Statutes, to read:

84 193.451 Annual growing of agricultural crops, nonbearing
85 fruit trees, nursery stock; taxability.--

86 (3) Personal property leased or subleased by the
87 Department of Agriculture and Consumer Services and utilized in
88 the inspection, grading, or classification of citrus fruit shall
89 be deemed to have value for purposes of assessment for ad
90 valorem property taxes no greater than its market value as
91 salvage. It is the expressed intent of the Legislature that this
92 subsection shall have retroactive application to December 31,
93 2003.

94 Section 2. Subsection (8) of section 372.921, Florida
95 Statutes, is amended to read:

96 372.921 Exhibition or sale of wildlife.--

97 (8) This section shall not apply to the possession,
98 control, care, and maintenance of ostriches, emus, ~~and~~ rheas,
99 and bison domesticated and confined for commercial farming
100 purposes, except those kept and maintained on hunting preserves
101 or game farms or primarily for exhibition purposes in zoos,
102 carnivals, circuses, and other such establishments where such
103 species are kept primarily for display to the public.

104 Section 3. Subsection (6) of section 372.922, Florida
105 Statutes, is amended to read:

106 372.922 Personal possession of wildlife.--

107 (6) This section shall not apply to the possession,
108 control, care, and maintenance of ostriches, emus, ~~and~~ rheas,
109 and bison domesticated and confined for commercial farming
110 purposes, except those kept and maintained on hunting preserves
111 or game farms or primarily for exhibition purposes in zoos,

112 carnivals, circuses, and other such establishments where such
 113 species are kept primarily for display to the public.

114 Section 4. Section 450.175, Florida Statutes, is created
 115 to read:

116 450.175 Part title.--Part II of this chapter may be cited
 117 as the "Alfredo Bahena Act."

118 Section 5. Section 450.211, Florida Statutes, is repealed.

119 Section 6. Subsection (7) of section 487.2031, Florida
 120 Statutes, is amended to read:

121 487.2031 Definitions.--For the purposes of this part, the
 122 term:

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

126 (a) The chemical name and the common name of the
 127 agricultural pesticide.

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

130 1. The potential for fire, explosions, corrosivity, and
 131 reactivity.

132 2. The known acute health effects and chronic health
 133 effects of exposure to the agricultural pesticide, including
 134 those medical conditions that are generally recognized as being
 135 aggravated by exposure to the agricultural pesticide.

136 3. The primary routes of entry and symptoms of
 137 overexposure.

138 (c) The proper handling practices, necessary personal
 139 protective equipment, and other proper or necessary safety

140 precautions in circumstances that involve the use of or exposure
141 to the agricultural pesticide, including appropriate emergency
142 treatment in case of overexposure.

143 (d) The emergency procedures for spills, fire, disposal,
144 and first aid.

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

149 (f) The year and month, if available, that the information
150 was compiled and the name, address, and emergency telephone
151 number of the manufacturer responsible for preparing the
152 information.

153 Section 7. Section 487.2042, Florida Statutes, is created
154 to read:

155 487.2042 Submission and investigation of complaints.--

156 (1) The department shall cause to be investigated any
157 complaint which is filed under this part if the complaint is in
158 writing, signed by the complainant, and is legally sufficient. A
159 complaint is legally sufficient if it contains ultimate facts
160 which show that a violation of this part, or the rules adopted
161 under this part, may have occurred. In order to determine legal
162 sufficiency, the department may require supporting information
163 or documentation. The department may investigate an anonymous
164 complaint or a complaint made by a confidential informant if the
165 complaint is in writing and is legally sufficient, if the
166 alleged violation of law or rules is substantial, and if the
167 department has reason to believe, after preliminary inquiry,

168 that the alleged violations in the complaint are true. The
169 department may initiate an investigation if it has reasonable
170 cause to believe that a person has violated this part or the
171 rules adopted under this part.

172 (2) A privilege against civil liability is hereby granted
173 to any complainant or any witness with regard to information
174 furnished with respect to any investigation or proceeding
175 pursuant to this part, unless the complainant or witness acted
176 in bad faith or with malice in providing such information.

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

180 Section 8. Section 502.014, Florida Statutes, is amended
181 to read:

182 502.014 Powers and duties.--

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

185 (a) The production, processing, and distribution of milk
186 and milk products.

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

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

194 (d) The laboratory work of testing and analyzing milk and
195 milk products.

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

199 (b) The department shall designate employees who shall be
200 certified by the United States Food and Drug Administration as
201 state milk sanitation rating officers, sampling surveillance
202 officers, and laboratory evaluation officers in accordance with
203 the requirements published in "Methods of Making Sanitation
204 Ratings of Milk Supplies," "Evaluation of Milk Laboratories,"
205 and "Procedures Governing the Cooperative State-Public Health
206 Service/Food and Drug Administration Program for Certification
207 of Interstate Milk Shippers," respectively, as adopted by
208 department rule. These officers shall conduct routine sanitation
209 compliance survey ratings of milk producers, milk plants,
210 laboratories, receiving stations, transfer stations, and
211 manufacturers of single-service containers for milk and milk
212 products. These ratings shall be made in accordance with the
213 recommendations of the United States Food and Drug
214 Administration published in Standard Methods for the Examination
215 of Dairy Products.

216 (3) The department shall manage a program to issue permits
217 to persons who test milk or milk products for milkfat content by
218 weight, volume, chemical, electronic, or other means when the
219 result of such test is used as a basis for payment for the milk
220 or milk products.

221 (4) The department shall define by rule "cottage cheese,"
222 "dry-curd cottage cheese," and "lowfat cottage cheese." The

223 department shall periodically update these definitions to
 224 maintain conformity with the federal definitions.

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

228 ~~(b) The department shall establish a fee, not to exceed~~
 229 ~~\$100, for the issuance of a state temporary marketing permit or~~
 230 ~~the use of a federal permit in the state. The fee shall cover~~
 231 ~~all costs of issuing the state permit or processing the federal~~
 232 ~~permit.~~

233 (5)(6) The department may impound any reconstituted or
 234 recombined milk or any adulterated or misbranded milk or milk
 235 product to prevent its use for human consumption, and may
 236 dispose of it in a manner that does not create a nuisance.

237 (6)(7) The department has authority to adopt rules
 238 pursuant to ss. 120.536(1) and 120.54 to implement and enforce
 239 the provisions of this chapter. In adopting these rules, the
 240 department shall be guided by and may conform to the definitions
 241 and standards of the administrative procedures and provisions of
 242 the pasteurized milk ordinance. The rules shall include, but are
 243 not limited to:

244 (a) Standards for milk and milk products.

245 (b) Provisions for the production, transportation,
 246 processing, handling, sampling, examination, grading, labeling,
 247 and sale of all milk and milk products and imitation and
 248 substitute milk and milk products sold for public consumption in
 249 this state.

250 (c) Provisions for the inspection of dairy herds, dairy
251 farms, and milk plants.

252 (d) Provisions for the issuance and revocation of permits
253 issued by the department pursuant to this chapter.

254 (7)~~(8)~~ The department shall not conduct routine tests or
255 inspections on raw milk that is shipped from outside the state.
256 Nothing in this subsection shall be construed to limit the
257 authority of the department to review industry records or sample
258 milk at any stage of production, processing, or distribution in
259 cases of suspected hazard to public health.

260 Section 9. Subsection (1) of section 502.091, Florida
261 Statutes, is amended to read:

262 502.091 Milk and milk products which may be sold.--

263 (1) Only Grade A pasteurized milk and milk products ~~or~~
264 ~~certified pasteurized milk~~ shall be sold to the final consumer
265 or to restaurants, soda fountains, grocery stores, or similar
266 establishments.

267 (a) In an emergency, however, the department may authorize
268 the sale of reconstituted pasteurized milk products, or
269 pasteurized milk and milk products that have not been graded or
270 the grade of that is unknown, in which case such milk and milk
271 products shall be appropriately labeled, as determined by the
272 department.

273 (b) If the department determines that milk is fit for
274 human consumption even though it is less than Grade A because
275 the producer failed to comply with the sanitation or bacterial
276 standards defined in this chapter, or if any specific shipment
277 of milk fails to comply with standards of the pasteurized milk

278 ordinance, the department may issue a permit allowing the milk
 279 to be used in ungraded products, such as frozen desserts, which
 280 are being processed by such milk plant. During processing of
 281 such milk, it shall be pasteurized at a temperature of at least
 282 175° F. for at least 15 seconds or at least 160° F. for at least
 283 30 minutes.

284 Section 10. Subsection (2) of section 503.011, Florida
 285 Statutes, is amended to read:

286 503.011 Definitions.--The following definitions shall
 287 apply in the interpretation and enforcement of this chapter:

288 (2) "Frozen desserts" means the foods which conform to the
 289 provisions of "definitions and standards of identity for frozen
 290 desserts," United States Food and Drug Administration, 21 C.F.R.
 291 part 135 (2004) ~~(1990)~~, and foods, defined by rule of the
 292 department, which resemble but do not conform to federal
 293 definitions. The term also includes, but is not limited to,
 294 "quiescently frozen confection," "quiescently frozen dairy
 295 confection," and "frozen dietary dairy dessert and frozen
 296 dietary dessert."

297 Section 11. Section 531.39, Florida Statutes, is amended
 298 to read:

299 531.39 State standards.--Weights and measures that are
 300 traceable to the United States prototype standards supplied by
 301 the Federal Government ~~(Pub. L. No. 89-164, 1965)~~, or approved
 302 as being satisfactory by the National Institute of Standards and
 303 Technology, shall be the state primary standards of weights and
 304 measures, and shall be maintained in such calibration as
 305 prescribed by the National Institute of Standards and

306 Technology. In addition, there shall be provided by the state
 307 such secondary standards as may be necessary to carry out the
 308 provisions of this chapter. The secondary standards shall be
 309 verified upon their initial receipt and as often thereafter as
 310 deemed necessary by the department.

311 Section 12. Section 531.47, Florida Statutes, is amended
 312 to read:

313 531.47 Information required on packages.--Except as
 314 otherwise provided in this chapter or by rules adopted pursuant
 315 thereto, any package ~~introduced in intrastate commerce,~~ kept for
 316 the purpose of sale, or offered or exposed for sale ~~in~~
 317 ~~intrastate commerce~~ shall bear on the outside of the package a
 318 definite, plain, and conspicuous declaration of:

319 (1) The identity of the commodity in the package, unless
 320 the same can easily be identified through the wrapper or
 321 container.

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

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

328 Section 13. Section 531.49, Florida Statutes, is amended
 329 to read:

330 531.49 Advertising packages for sale.--Whenever a packaged
 331 commodity is advertised in any manner with the retail price
 332 stated, there shall be closely and conspicuously associated with
 333 the retail price a declaration of quantity as is required by law

334 or rule to appear on the package. ~~When a dual declaration is~~
 335 ~~required, only the declaration that sets forth the quantity in~~
 336 ~~terms of the smaller unit of weight or measure need appear in~~
 337 ~~the advertisement.~~

338 Section 14. Subsection (16) of section 570.07, Florida
 339 Statutes, is amended, and subsection (41) is added to said
 340 section, to read:

341 570.07 Department of Agriculture and Consumer Services;
 342 functions, powers, and duties.--The department shall have and
 343 exercise the following functions, powers, and duties:

344 (16) To enforce the state laws and rules relating to:

345 (a) Fruit and vegetable inspection and grading;

346 (b) Pesticide spray, residue inspection, and removal;

347 (c) Registration, labeling, inspection, and analysis of
 348 commercial stock feeds and commercial fertilizers;

349 (d) Classification, inspection, and sale of poultry and
 350 eggs;

351 (e) Registration, inspection, and analysis of gasolines
 352 and oils;

353 (f) Registration, labeling, inspection, and analysis of
 354 pesticides;

355 (g) Registration, labeling, inspection, germination
 356 testing, and sale of seeds, both common and certified;

357 (h) Weights, measures, and standards;

358 (i) Foods, as set forth in the Florida Food Safety Act;

359 (j) Inspection and certification of honey;

360 (k) Sale of liquid fuels;

361 (l) Licensing of dealers in agricultural products;

362 (m) Administration and enforcement of all regulatory
363 legislation applying to milk and milk products, ice cream, and
364 frozen desserts;

365 (n) Recordation and inspection of marks and brands of
366 livestock; and

367 (o) All other regulatory laws relating to agriculture.
368

369 In order to ensure uniform health and safety standards, the
370 adoption of standards and fines in the subject areas of
371 paragraphs (a) - (n) is expressly preempted to the state and the
372 department. Any local government enforcing the subject areas of
373 paragraphs (a) - (n) must use the standards and fines set forth in
374 the pertinent statutes or any rules adopted by the department
375 pursuant to those statutes.

376 (41) Notwithstanding the provisions of s. 287.057(23)(a),
377 that require all agencies to use the on-line procurement system
378 developed by the Department of Management Services, the
379 department may continue to use its own on-line system. However,
380 vendors utilizing such system shall be prequalified as meeting
381 mandatory requirements and qualifications and shall remit fees
382 pursuant to s.287.057(23), and any rules implementing s.
383 287.057.

384 Section 15. Section 570.076, Florida Statutes, is created
385 to read:

386 570.076 Environmental Stewardship Certification
387 Program.--The department may, by rule, establish the
388 Environmental Stewardship Certification Program consistent with
389 this section. A rule adopted under this section must be

390 developed in consultation with state universities, agricultural
391 organizations, and other interested parties.

392 (1) The program must:

393 (a) Be integrated, to the maximum extent practicable, with
394 programs that are sponsored by agricultural organizations or
395 state universities.

396 (b) Be designed to recognize and promote agricultural
397 operations or homeowner practices that demonstrate exemplary
398 resource management that is related to environmental
399 stewardship.

400 (c) Include a process to periodically review a
401 certification to ensure compliance with the program
402 requirements, including implementation by the certificateholder.

403 (d) Require periodic continuing education in relevant
404 environmental stewardship issues in order to maintain
405 certification.

406 (2) The department shall provide an agricultural
407 certification under this program for implementation of one or
408 more of the following criteria:

409 (a) A voluntary agreement between an agency and an
410 agricultural producer for environmental improvement or water-
411 resource protection.

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

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

416 (3) The Soil and Water Conservation Council created by s.
417 582.06 may develop and recommend to the department for adoption

418 additional criteria for receipt of an agricultural certification
 419 which may include, but not be limited to:

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

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

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

425 (4) If needed, the department and the Institute of Food
 426 and Agricultural Sciences at the University of Florida may
 427 jointly develop a curriculum that provides instruction
 428 concerning environmental issues pertinent to agricultural
 429 certification and deliver such curriculum to, and certify its
 430 completion by, any person seeking certification or to maintain
 431 certification.

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

435 Section 16. Paragraph (a) of subsection (4) of section
 436 570.9135, Florida Statutes, is amended to read:

437 570.9135 Beef Market Development Act; definitions; Florida
 438 Beef Council, Inc., creation, purposes, governing board, powers,
 439 and duties; referendum on assessments imposed on gross receipts
 440 from cattle sales; payments to organizations for services;
 441 collecting and refunding assessments; vote on continuing the
 442 act; council bylaws.--

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

444 (a) There is created the Florida Beef Council, Inc., a
 445 not-for-profit corporation organized under the laws of this

446 state and operating as a direct-support ~~direct-service~~
 447 organization of the department.

448 Section 17. Subsections (2) and (5) of section 570.952,
 449 Florida Statutes, are amended to read:

450 570.952 Florida Agriculture Center and Horse Park
 451 Authority.--

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

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

455 ~~1. Three citizens at large, who shall represent the views~~
 456 ~~of the general public toward agriculture and equine activities~~
 457 ~~in the state.~~

458 ~~2. One representative from the Department of Agriculture~~
 459 ~~and Consumer Services.~~

460 ~~3. One representative from Enterprise Florida, Inc.~~

461 ~~4. One representative from the Department of Environmental~~
 462 ~~Protection, Office of Greenways and Trails.~~

463 ~~5. One member of the Ocala/Marion County Chamber of~~
 464 ~~Commerce.~~

465 ~~6. Two representatives of the tourism or hospitality~~
 466 ~~industry.~~

467 ~~7. Three representatives of the commercial agriculture~~
 468 ~~industry.~~

469 ~~8. Three representatives from recognized horse breed~~
 470 ~~associations.~~

471 ~~9. One representative of the veterinary industry.~~

472 ~~10. Three representatives from the competitive equine~~
 473 ~~industry.~~

474 ~~11. One representative from the horse pleasure and trail~~
 475 ~~riding industry.~~

476 ~~12. One representative recommended by the Board of County~~
 477 ~~Commissioners of Marion County.~~

478 (a) ~~(b)~~ Initially, the commissioner shall appoint 11
 479 members for 4-year terms and 10 members for 2-year terms.
 480 Thereafter, each member shall be appointed for a term of 4 years
 481 from the date of appointment, except that a vacancy shall be
 482 filled by appointment for the remainder of the term.

483 (b) ~~(e)~~ Any member of the authority who fails to attend
 484 three consecutive authority meetings without good cause shall be
 485 deemed to have resigned from the authority. ~~The commissioner~~
 486 ~~shall appoint a person representing the same interest or trade~~
 487 ~~as the resigning member. Current members shall continue to serve~~
 488 ~~until successors are appointed.~~

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

491 ~~(5) The commissioner shall submit information annually to~~
 492 ~~the Speaker of the House of Representatives and the President of~~
 493 ~~the Senate reporting the activities of the Florida Agriculture~~
 494 ~~Center and Horse Park Authority and the progress of the Florida~~
 495 ~~Agriculture Center and Horse Park, including, but not limited~~
 496 ~~to, pertinent planning, budgeting, and operational information~~
 497 ~~concerning the authority.~~

498 Section 18. Subsections (15) through (29) of section
 499 581.011, Florida Statutes, are renumbered as subsections (16)
 500 through (30), respectively and a new subsection (15) is added to
 501 said section to read:

502 581.011 Definitions.--As used in this chapter:

503 (15) "Invasive plant" means a naturalized plant that
 504 disrupts naturally occurring native plant communities.

505 Section 19. Subsection (4) is added to section 581.083,
 506 Florida Statutes, to read:

507 581.083 Introduction or release of plant pests, noxious
 508 weeds, or organisms affecting plant life; cultivation of
 509 nonnative plants; special permit and security required.--

510 (4) A person may not cultivate a nonnative plant,
 511 including a genetically engineered plant or a plant that has
 512 been introduced, for purposes of fuel production or purposes
 513 other than agriculture in plantings greater in size than 2
 514 contiguous acres, except under a special permit issued by the
 515 department through the division, which is the sole agency
 516 responsible for issuing such special permits. Such a permit
 517 shall not be required if the department determines, in
 518 conjunction with the Institute of Food and Agricultural Sciences
 519 at the University of Florida, that the plant is not invasive and
 520 subsequently exempts the plant by rule.

521 (a)1. Each application for a special permit must be
 522 accompanied by a fee as described in subsection (2) and proof
 523 that the applicant has obtained a bond in the form approved by
 524 the department and issued by a surety company admitted to do
 525 business in this state or a certificate of deposit. The
 526 application must include, on a form provided by the department,
 527 the name of the applicant and the applicant's address or the
 528 address of the applicant's principal place of business; a
 529 statement completely identifying the nonnative plant to be

530 cultivated; and a statement of the estimated cost of removing
531 and destroying the plant that is the subject of the special
532 permit and the basis for calculating or determining that
533 estimate. If the applicant is a corporation, partnership, or
534 other business entity, the applicant must also provide in the
535 application the name and address of each officer, partner, or
536 managing agent. The applicant shall notify the department within
537 10 business days of any change of address or change in the
538 principal place of business. The department shall mail all
539 notices to the applicant's last known address.

540 2. As used in this subsection, the term "certificate of
541 deposit" means a certificate of deposit at any recognized
542 financial institution doing business in the United States. The
543 department may not accept a certificate of deposit in connection
544 with the issuance of a special permit unless the issuing
545 institution is properly insured by the Federal Deposit Insurance
546 Corporation or the Federal Savings and Loan Insurance
547 Corporation.

548 (b) Upon obtaining a permit, the permitholder may annually
549 cultivate and maintain the nonnative plants as authorized by the
550 special permit. If the permitholder ceases to maintain or
551 cultivate the plants authorized by the special permit, if the
552 permit expires, or if the permitholder ceases to abide by the
553 conditions of the special permit, the permitholder shall
554 immediately remove and destroy the plants that are subject to
555 the permit, if any remain. The permitholder shall notify the
556 department of the removal and destruction of the plants within
557 10 days after such event.

558 (c) If the department:

559 1. Determines that the permitholder is no longer

560 maintaining or cultivating the plants subject to the special

561 permit and has not removed and destroyed the plants authorized

562 by the special permit;

563 2. Determines that the continued maintenance or

564 cultivation of the plants presents an imminent danger to public

565 health, safety, or welfare;

566 3. Determines that the permitholder has exceeded the

567 conditions of the authorized special permit; or

568 4. Receives a notice of cancellation of the surety bond,

569

570 the department may issue an immediate final order, which shall

571 be immediately appealable or enjoicable as provided by chapter

572 120, directing the permitholder to immediately remove and

573 destroy the plants authorized to be cultivated under the special

574 permit. A copy of the immediate final order shall be mailed to

575 the permitholder and to the surety company or financial

576 institution that has provided security for the special permit,

577 if applicable.

578 (d) If, upon issuance by the department of an immediate

579 final order to the permitholder, the permitholder fails to

580 remove and destroy the plants subject to the special permit

581 within 60 days after issuance of the order, or such shorter

582 period as is designated in the order as public health, safety,

583 or welfare requires, the department may enter the cultivated

584 acreage and remove and destroy the plants that are the subject

585 of the special permit. If the permitholder makes a written

586 request to the department for an extension of time to remove and
587 destroy the plants that demonstrates specific facts showing why
588 the plants could not reasonably be removed and destroyed in the
589 applicable timeframe, the department may extend the time for
590 removing and destroying plants subject to a special permit. The
591 reasonable costs and expenses incurred by the department for
592 removing and destroying plants subject to a special permit shall
593 be reimbursed to the department by the permitholder within 21
594 days after the date the permitholder and the surety company or
595 financial institution are served a copy of the department's
596 invoice for the costs and expenses incurred by the department to
597 remove and destroy the cultivated plants, along with a notice of
598 administrative rights, unless the permitholder or the surety
599 company or financial institution object to the reasonableness of
600 the invoice. In the event of an objection, the permitholder or
601 surety company or financial institution is entitled to an
602 administrative proceeding as provided by chapter 120. Upon entry
603 of a final order determining the reasonableness of the incurred
604 costs and expenses, the permitholder shall have 15 days
605 following service of the final order to reimburse the
606 department. Failure of the permitholder to timely reimburse the
607 department for the incurred costs and expenses entitles the
608 department to reimbursement from the applicable bond or
609 certificate of deposit.

610 (e) Each permitholder shall maintain for each separate
611 growing location a bond or a certificate of deposit in an amount
612 determined by the department, but not less than 150 percent of
613 the estimated cost of removing and destroying the cultivated

614 plants. The bond or certificate of deposit may not exceed \$5,000
615 per acre, unless a higher amount is determined by the department
616 to be necessary to protect the public health, safety, and
617 welfare or unless an exemption is granted by the department
618 based on conditions specified in the application which would
619 preclude the department from incurring the cost of removing and
620 destroying the cultivated plants and would prevent injury to the
621 public health, safety, and welfare. The aggregate liability of
622 the surety company or financial institution to all persons for
623 all breaches of the conditions of the bond or certificate of
624 deposit may not exceed the amount of the bond or certificate of
625 deposit. The original bond or certificate of deposit required by
626 this subsection shall be filed with the department. A surety
627 company shall give the department 30 days' written notice of
628 cancellation, by certified mail, in order to cancel a bond.
629 Cancellation of a bond does not relieve a surety company of
630 liability for paying to the department all costs and expenses
631 incurred or to be incurred for removing and destroying the
632 permitted plants covered by an immediate final order authorized
633 under paragraph (c). A bond or certificate of deposit must be
634 provided or assigned in the exact name in which an applicant
635 applies for a special permit. The penal sum of the bond or
636 certificate of deposit to be furnished to the department by a
637 permitholder in the amount specified in this paragraph must
638 guarantee payment of the costs and expenses incurred or to be
639 incurred by the department for removing and destroying the
640 plants cultivated under the issued special permit. The bond or
641 certificate of deposit assignment or agreement must be upon a

642 form prescribed or approved by the department and must be
643 conditioned to secure the faithful accounting for and payment of
644 all costs and expenses incurred by the department for removing
645 and destroying all plants cultivated under the special permit.
646 The bond or certificate of deposit assignment or agreement must
647 include terms binding the instrument to the Commissioner of
648 Agriculture. Such certificate of deposit shall be presented with
649 an assignment of the permitholder's rights in the certificate in
650 favor of the Commissioner of Agriculture on a form prescribed by
651 the department and with a letter from the issuing institution
652 acknowledging that the assignment has been properly recorded on
653 the books of the issuing institution and will be honored by the
654 issuing institution. Such assignment is irrevocable while a
655 special permit is in effect and for an additional period of 6
656 months after termination of the special permit if operations to
657 remove and destroy the permitted plants are not continuing and
658 if the department's invoice remains unpaid by the permitholder
659 under the issued immediate final order. If operations to remove
660 and destroy the plants are pending, the assignment remains in
661 effect until all plants are removed and destroyed and the
662 department's invoice has been paid. The bond or certificate of
663 deposit may be released by the assignee of the surety company or
664 financial institution to the permitholder, or to the
665 permitholder's successors, assignee, or heirs, if operations to
666 remove and destroy the permitted plants are not pending and no
667 invoice remains unpaid at the conclusion of 6 months after the
668 last effective date of the special permit. The department may
669 not accept a certificate of deposit that contains any provision

670 that would give to any person any prior rights or claim on the
671 proceeds or principal of such certificate of deposit. The
672 department shall determine by rule whether an annual bond or
673 certificate of deposit will be required. The amount of such bond
674 or certificate of deposit shall be increased, upon order of the
675 department, at any time if the department finds such increase to
676 be warranted by the cultivating operations of the permitholder.
677 In the same manner, the amount of such bond or certificate of
678 deposit may be decreased when a decrease in the cultivating
679 operations warrants such decrease. This paragraph applies to any
680 bond or certificate of deposit, regardless of the anniversary
681 date of its issuance, expiration, or renewal.

682 (f) In order to carry out the purposes of this subsection,
683 the department or its agents may require from any permitholder
684 verified statements of the cultivated acreage subject to the
685 special permit and may review the permitholder's business or
686 cultivation records at her or his place of business during
687 normal business hours in order to determine the acreage
688 cultivated. The failure of a permitholder to furnish such
689 statement, to make such records available, or to make and
690 deliver a new or additional bond or certificate of deposit is
691 cause for suspension of the special permit. If the department
692 finds such failure to be willful, the special permit may be
693 revoked.

694 Section 20. Subsection (3) of section 585.002, Florida
695 Statutes, is amended to read:

696 585.002 Department control; continuance of powers, duties,
697 rules, orders, etc.--

698 (3) The department, to the exclusion of all other state
 699 agencies, shall have regulatory authority over the possession,
 700 control, care, and maintenance of ostriches, emus, ~~and rheas,~~
 701 and bison domesticated and confined for commercial farming
 702 purposes, except those kept and maintained on hunting preserves
 703 or game farms or primarily for exhibition purposes in zoos,
 704 carnivals, circuses, and other such establishments where such
 705 species are kept primarily for display to the public.

706 Section 21. Paragraph (c) of subsection (3) of section
 707 590.125, Florida Statutes, is amended to read:

708 590.125 Open burning authorized by the division.--

709 (3) CERTIFIED PRESCRIBED BURNING; LEGISLATIVE FINDINGS AND
 710 PURPOSE.--

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

716 Section 22. If any provision of this act or the
 717 application thereof to any person or circumstances is held
 718 invalid, the invalidity shall not affect other provisions or
 719 applications of the act which can be given effect without the
 720 invalid provision or application and, to this end, the
 721 provisions of this act are declared severable.

722 Section 23. This act shall take effect July 1, 2005.