

## ENROLLED

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2005 Legislature

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26 outdated reference relating to state standards for weights  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

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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

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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:

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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,

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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

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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,

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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.

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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



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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.

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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

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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

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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

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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;

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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

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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

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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



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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.~~

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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:

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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

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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.

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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

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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

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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

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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



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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.--

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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.