

Bill No. CS for CS for SB 858

Barcode 830408

CHAMBER ACTION

Senate

House

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The Committee on Judiciary (Aronberg) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

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

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

Section 2. Subsection (30) of section 212.02, Florida Statutes, is amended, subsections (31) and (32) of that

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1 section are repealed, and present subsections (33) and (34) of
2 that section are redesignated as subsections (31) and (32),
3 respectively, to read:

4 212.02 Definitions.--The following terms and phrases
5 when used in this chapter have the meanings ascribed to them
6 in this section, except where the context clearly indicates a
7 different meaning:

8 (30) "Power ~~Self-propelled~~ farm equipment" means
9 moving or stationary equipment that contains within itself the
10 means for its own propulsion or power and moving or stationary
11 equipment that is dependent upon an external power source to
12 perform its functions, including, but not limited to,
13 ~~tractors.~~

14 Section 3. Subsection (8) of section 372.921, Florida
15 Statutes, is amended to read:

16 372.921 Exhibition or sale of wildlife.--
17 (8) This section shall not apply to the possession,
18 control, care, and maintenance of ostriches, emus, ~~and~~ rneas,
19 and bison domesticated and confined for commercial farming
20 purposes, except those kept and maintained on hunting
21 preserves or game farms or primarily for exhibition purposes
22 in zoos, carnivals, circuses, and other such establishments
23 where such species are kept primarily for display to the
24 public.

25 Section 4. Subsection (6) of section 372.922, Florida
26 Statutes, is amended to read:

27 372.922 Personal possession of wildlife.--
28 (6) This section shall not apply to the possession,
29 control, care, and maintenance of ostriches, emus, ~~and~~ rneas,
30 and bison domesticated and confined for commercial farming
31 purposes, except those kept and maintained on hunting

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1 preserves or game farms or primarily for exhibition purposes
2 in zoos, carnivals, circuses, and other such establishments
3 where such species are kept primarily for display to the
4 public.

5 Section 5. Section 450.175, Florida Statutes, is
6 created to read:

7 450.175 Short title.--Part II of this chapter may be
8 cited as the "Alfredo Bahena Act."

9 Section 6. Section 450.211, Florida Statutes, is
10 repealed.

11 Section 7. Subsection (7) of section 487.2031, Florida
12 Statutes, is amended to read:

13 487.2031 Definitions.--For the purposes of this part,
14 the term:

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

18 (a) The chemical name and the common name of the
19 agricultural pesticide.

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

22 1. The potential for fire, explosions, corrosivity,
23 and reactivity.

24 2. The known acute health effects and chronic health
25 effects of exposure to the agricultural pesticide, including
26 those medical conditions that are generally recognized as
27 being aggravated by exposure to the agricultural pesticide.

28 3. The primary routes of entry and symptoms of
29 overexposure.

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

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1 precautions in circumstances that involve the use of or
2 exposure to the agricultural pesticide, including appropriate
3 emergency treatment in case of overexposure.

4 (d) The emergency procedures for spills, fire,
5 disposal, and first aid.

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

10 (f) The year and month, if available, that the
11 information was compiled and the name, address, and emergency
12 telephone number of the manufacturer responsible for preparing
13 the information.

14 Section 8. Section 487.2042, Florida Statutes, is
15 created to read:

16 487.2042 Submission and investigation of complaints.--

17 (1) The department shall cause to be investigated any
18 complaint that is filed under this part if the complaint is in
19 writing, is signed by the complainant, and is legally
20 sufficient. A complaint is legally sufficient if it contains
21 ultimate facts that show that a violation of this part, or the
22 rules adopted under this part, may have occurred. In order to
23 determine legal sufficiency, the department may require
24 supporting information or documentation. The department may
25 investigate an anonymous complaint or a complaint made by a
26 confidential informant if the complaint is in writing and is
27 legally sufficient, if the alleged violation of law or rules
28 is substantial, and if the department has reason to believe,
29 after preliminary inquiry, that the alleged violations in the
30 complaint are true. The department may initiate an
31 investigation if it has reasonable cause to believe that a

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1 person has violated this part or the rules adopted under this
2 part.

3 (2) A privilege against civil liability is granted to
4 any complainant or any witness with regard to information
5 furnished with respect to any investigation or proceeding
6 pursuant to this chapter, unless the complainant or witness
7 acted in bad faith or with malice in providing such
8 information.

9 (3) A person who knowingly makes a false complaint in
10 writing under this part commits a misdemeanor of the second
11 degree, punishable as provided in s. 775.082, s. 775.083, or
12 s. 837.06.

13 Section 9. Section 502.014, Florida Statutes, is
14 amended to read:

15 502.014 Powers and duties.--

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

18 (a) The production, processing, and distribution of
19 milk and milk products.

20 (b) The sanitation and sanitary practices of
21 establishments where food and drink, including milk and milk
22 products, are sold for consumption on the premises, except
23 food service establishments regulated under chapters 381 and
24 509.

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

28 (d) The laboratory work of testing and analyzing milk
29 and milk products.

30 (2)(a) The department shall conduct onsite inspections
31 of dairy farms and milk plants, and collect test samples of

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1 milk and milk products, as required by this chapter.

2 (b) The department shall designate employees who shall
3 be certified by the United States Food and Drug Administration
4 as state milk sanitation rating officers, sampling
5 surveillance officers, and laboratory evaluation officers in
6 accordance with the requirements published in "Methods of
7 Making Sanitation Ratings of Milk Supplies," "Evaluation of
8 Milk Laboratories," and "Procedures Governing the Cooperative
9 State-Public Health Service/Food and Drug Administration
10 Program for Certification of Interstate Milk Shippers,"
11 respectively, as adopted by department rule. These officers
12 shall conduct routine sanitation compliance survey ratings of
13 milk producers, milk plants, laboratories, receiving stations,
14 transfer stations, and manufacturers of single-service
15 containers for milk and milk products. These ratings shall be
16 made in accordance with the recommendations of the United
17 States Food and Drug Administration published in Standard
18 Methods for the Examination of Dairy Products.

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

24 (4) The department shall define by rule "cottage
25 cheese," "dry-curd cottage cheese," and "lowfat cottage
26 cheese." The department shall periodically update these
27 definitions to maintain conformity with the federal
28 definitions.

29 ~~(5)(a) The department shall adopt criteria for~~
30 ~~issuance of a state temporary marketing permit for milk and~~
31 ~~milk products that do not conform to existing standards and~~

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1 ~~definitions.~~

2 ~~(b) The department shall establish a fee, not to~~
3 ~~exceed \$100, for the issuance of a state temporary marketing~~
4 ~~permit or the use of a federal permit in the state. The fee~~
5 ~~shall cover all costs of issuing the state permit or~~
6 ~~processing the federal permit.~~

7 ~~(5)(6)~~ The department may impound any reconstituted or
8 recombined milk or any adulterated or misbranded milk or milk
9 product to prevent its use for human consumption, and may
10 dispose of it in a manner that does not create a nuisance.

11 ~~(6)(7)~~ The department has authority to adopt rules
12 pursuant to ss. 120.536(1) and 120.54 to implement and enforce
13 the provisions of this chapter. In adopting these rules, the
14 department shall be guided by and may conform to the
15 definitions and standards of the administrative procedures and
16 provisions of the pasteurized milk ordinance. The rules shall
17 include, but are not limited to:

18 (a) Standards for milk and milk products.

19 (b) Provisions for the production, transportation,
20 processing, handling, sampling, examination, grading,
21 labeling, and sale of all milk and milk products and imitation
22 and substitute milk and milk products sold for public
23 consumption in this state.

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

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

28 ~~(7)(8)~~ The department shall not conduct routine tests
29 or inspections on raw milk that is shipped from outside the
30 state. Nothing in this subsection shall be construed to limit
31 the authority of the department to review industry records or

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1 sample milk at any stage of production, processing, or
2 distribution in cases of suspected hazard to public health.

3 Section 10. Subsection (1) of section 502.091, Florida
4 Statutes, is amended to read:

5 502.091 Milk and milk products which may be sold.--

6 (1) Only Grade A pasteurized milk and milk products ~~or~~
7 ~~certified pasteurized milk~~ shall be sold to the final consumer
8 or to restaurants, soda fountains, grocery stores, or similar
9 establishments.

10 (a) In an emergency, however, the department may
11 authorize the sale of reconstituted pasteurized milk products,
12 or pasteurized milk and milk products that have not been
13 graded or the grade of that is unknown, in which case such
14 milk and milk products shall be appropriately labeled, as
15 determined by the department.

16 (b) If the department determines that milk is fit for
17 human consumption even though it is less than Grade A because
18 the producer failed to comply with the sanitation or bacterial
19 standards defined in this chapter, or if any specific shipment
20 of milk fails to comply with standards of the pasteurized milk
21 ordinance, the department may issue a permit allowing the milk
22 to be used in ungraded products, such as frozen desserts,
23 which are being processed by such milk plant. During
24 processing of such milk, it shall be pasteurized at a
25 temperature of at least 175° F. for at least 15 seconds or at
26 least 160° F. for at least 30 minutes.

27 Section 11. Subsection (2) of section 503.011, Florida
28 Statutes, is amended to read:

29 503.011 Definitions.--The following definitions shall
30 apply in the interpretation and enforcement of this chapter:

31 (2) "Frozen desserts" means the foods which conform to

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1 the provisions of "definitions and standards of identity for
 2 frozen desserts," United States Food and Drug Administration,
 3 21 C.F.R. part 135(2004)(1990), and foods, defined by rule
 4 of the department, which resemble but do not conform to
 5 federal definitions. The term also includes, but is not
 6 limited to, "quiescently frozen confection," "quiescently
 7 frozen dairy confection," and "frozen dietary dairy dessert
 8 and frozen dietary dessert."

9 Section 12. Section 531.39, Florida Statutes, is
 10 amended to read:

11 531.39 State standards.--Weights and measures that are
 12 traceable to the United States prototype standards supplied by
 13 the Federal Government(~~Pub. L. No. 89-164, 1965~~), or approved
 14 as being satisfactory by the National Institute of Standards
 15 and Technology, shall be the state primary standards of
 16 weights and measures, and shall be maintained in such
 17 calibration as prescribed by the National Institute of
 18 Standards and Technology. In addition, there shall be
 19 provided by the state such secondary standards as may be
 20 necessary to carry out the provisions of this chapter. The
 21 secondary standards shall be verified upon their initial
 22 receipt and as often thereafter as deemed necessary by the
 23 department.

24 Section 13. Section 531.47, Florida Statutes, is
 25 amended to read:

26 531.47 Information required on packages.--Except as
 27 otherwise provided in this chapter or by rules adopted
 28 pursuant thereto, any package ~~introduced in intrastate~~
 29 ~~commerce~~, kept for the purpose of sale, or offered or exposed
 30 for sale ~~in intrastate commerce~~ shall bear on the outside of
 31 the package a definite, plain, and conspicuous declaration of:

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

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

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

10 Section 14. Section 531.49, Florida Statutes, is
11 amended to read:

12 531.49 Advertising packages for sale.--Whenever a
13 packaged commodity is advertised in any manner with the retail
14 price stated, there shall be closely and conspicuously
15 associated with the retail price a declaration of quantity as
16 is required by law or rule to appear on the package. ~~When a~~
17 ~~dual declaration is required, only the declaration that sets~~
18 ~~forth the quantity in terms of the smaller unit of weight or~~
19 ~~measure need appear in the advertisement.~~

20 Section 15. Subsection (16) of section 570.07, Florida
21 Statutes, is amended, and subsection (41) is added to that
22 section, to read:

23 570.07 Department of Agriculture and Consumer
24 Services; functions, powers, and duties.--The department shall
25 have and exercise the following functions, powers, and duties:

- 26 (16) To enforce the state laws and rules relating to:
- 27 (a) Fruit and vegetable inspection and grading;
- 28 (b) Pesticide spray, residue inspection, and removal;
- 29 (c) Registration, labeling, inspection, and analysis
- 30 of commercial stock feeds and commercial fertilizers;
- 31 (d) Classification, inspection, and sale of poultry

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1 and eggs;

2 (e) Registration, inspection, and analysis of
3 gasolines and oils;

4 (f) Registration, labeling, inspection, and analysis
5 of pesticides;

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

8 (h) Weights, measures, and standards;

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

11 (j) Inspection and certification of honey;

12 (k) Sale of liquid fuels;

13 (l) Licensing of dealers in agricultural products;

14 (m) Administration and enforcement of all regulatory
15 legislation applying to milk and milk products, ice cream, and
16 frozen desserts;

17 (n) Recordation and inspection of marks and brands of
18 livestock; and

19 (o) All other regulatory laws relating to agriculture.
20

21 Notwithstanding any other law or local ordinance to the
22 contrary, in order to ensure uniform health and safety
23 standards, the adoption of standards and fines in the subject
24 areas of paragraphs (a)-(o) is expressly preempted to the
25 state and the Department of Agriculture and Consumer Services.
26 Any local government enforcing the subject areas of paragraphs
27 (a)-(o) must use the standards and fines set forth in the
28 pertinent statutes or any rules adopted by the department
29 pursuant to those statutes.

30 (41) Notwithstanding any other provision of law, to
31 use any program for online procurement of commodities or

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1 contractual services, but not to be obligated to do so.

2 Section 16. Section 570.076, Florida Statutes, is
3 created to read:

4 570.076 Environmental Stewardship Certification
5 Program.--The department may, by rule, establish the
6 Environmental Stewardship Certification Program consistent
7 with this section. A rule adopted under this section must be
8 developed in consultation with state universities,
9 agricultural organizations, and other interested parties.

10 (1) The program must:

11 (a) Be integrated, to the maximum extent practicable,
12 with programs that are sponsored by agricultural organizations
13 or state universities.

14 (b) Be designed to recognize and promote agricultural
15 operations or homeowner practices that demonstrate exemplary
16 resource management that is related to environmental
17 stewardship.

18 (c) Include a process to periodically review a
19 certification to ensure compliance with the program
20 requirements, including implementation by the
21 certificateholder.

22 (d) Require periodic continuing education in relevant
23 environmental stewardship issues in order to maintain
24 certification.

25 (2) The department shall provide an agricultural
26 certification under this program for the implementation of one
27 or more of the following criteria:

28 (a) A voluntary agreement between an agency and an
29 agricultural producer for environmental improvement or
30 water-resource protection.

31 (b) A conservation plan that meets or exceeds the

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1 requirements of the United States Department of Agriculture.

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

4 (3) The Soil and Water Conservation Council created
5 under s. 582.06 may develop and recommend to the department
6 for adoption additional criteria for receipt of an
7 agricultural certification which may include, but need not be
8 limited to:

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

10 (b) Promotion of environmental awareness and
11 responsible resource stewardship in agricultural or urban
12 communities.

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

15 (4) If needed, the department and the Institute of
16 Food and Agricultural Sciences at the University of Florida
17 may jointly develop a curriculum that provides instruction
18 concerning environmental issues pertinent to agricultural
19 certification and deliver the curriculum to, and certify its
20 completion by, any person who seeks certification or to
21 maintain certification.

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

25 Section 17. Paragraph (a) of subsection (4) of section
26 570.9135, Florida Statutes, is amended to read:

27 570.9135 Beef Market Development Act; definitions;
28 Florida Beef Council, Inc., creation, purposes, governing
29 board, powers, and duties; referendum on assessments imposed
30 on gross receipts from cattle sales; payments to organizations
31 for services; collecting and refunding assessments; vote on

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1 continuing the act; council bylaws.--

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

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

7 Section 18. Subsections (2) and (5) of section
8 570.952, F.S., are amended to read:

9 570.952 Florida Agriculture Center and Horse Park
10 Authority.--

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

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

14 ~~1. Three citizens-at-large, who shall represent the~~
15 ~~views of the general public toward agriculture and equine~~
16 ~~activities in the state.~~

17 ~~2. One representative from the Department of~~
18 ~~Agriculture and Consumer Services.~~

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

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

22 ~~5. One member of the Ocala/Marion County Chamber of~~
23 ~~Commerce.~~

24 ~~6. Two representatives of the tourism or hospitality~~
25 ~~industry.~~

26 ~~7. Three representatives of the commercial agriculture~~
27 ~~industry.~~

28 ~~8. Three representatives from recognized horse breed~~
29 ~~associations.~~

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

31 ~~10. Three representatives from the competitive equine~~

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1 ~~industry.~~

2 ~~11. One representative from the horse pleasure and~~
3 ~~trail riding industry.~~

4 ~~12. One representative recommended by the Board of~~
5 ~~County Commissioners of Marion County.~~

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

11 ~~(b)(c)~~ Any member of the authority who fails to attend
12 three consecutive authority meetings without good cause shall
13 be deemed to have resigned from the authority. ~~The~~
14 ~~commissioner shall appoint a person representing the same~~
15 ~~interest or trade as the resigning member. Current members~~
16 ~~shall continue to serve until successors are appointed.~~

17 (c) Terms for members who are appointed before July 1,
18 2005, shall expire on July 1, 2005.

19 ~~(5) The commissioner shall submit information annually~~
20 ~~to the Speaker of the House of Representatives and the~~
21 ~~President of the Senate reporting the activities of the~~
22 ~~Florida Agriculture Center and Horse Park Authority and the~~
23 ~~progress of the Florida Agriculture Center and Horse Park,~~
24 ~~including, but not limited to, pertinent planning, budgeting,~~
25 ~~and operational information concerning the authority.~~

26 Section 19. Section 581.011, Florida Statutes, is
27 amended to read:

28 581.011 Definitions.--As used in this chapter:

29 (1) "Agent" means any person selling or distributing
30 nursery stock under the partial or full control of a
31 nurseryman.

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1 (2) "Aquatic plant" means any plant, including a
 2 floating, immersed, submersed, or ditch bank species, growing
 3 in or closely associated with an aquatic environment, and
 4 includes any part or seed of such plant.

5 (3) "Arthropod" means any segmented invertebrate
 6 animal having jointed appendages and an exoskeleton, including
 7 insects, spiders, ticks, mites, and scorpions, but excluding
 8 crustaceans for the purpose of this chapter.

9 (4) "Authorized representative" means any designated
 10 employee, inspector, or collaborator of the division or the
 11 United States Department of Agriculture.

12 (5) "Certificate of inspection" means an official
 13 document stipulating compliance with the requirements of this
 14 chapter. The term "certificate" includes label, rubber stamp
 15 imprint, tag, permit, written statement, or any form of
 16 inspection and certification document which accompanies the
 17 movement of inspected and certified plant material and plant
 18 products.

19 (6) "Certificate of registration" means an official
 20 document issued by the division to nurseries, stock dealers,
 21 agents, and plant brokers as evidence of being properly
 22 registered with the division in compliance with the
 23 requirements of this chapter and of any of the rules
 24 promulgated hereunder.

25 (7) "Citrus" means all plants, plant parts, and plant
 26 products, including seed and fruit, of all genera, species,
 27 and varieties of the Rutaceous subfamilies Aurantioideae,
 28 Rutoideae, and Toddalioideae, unless specifically excluded by
 29 the rules of the department.

30 (8) "Collaborator" means a person cooperating with the
 31 division in some capacity, who has been officially designated

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1 to perform certain duties for the division.

2 (9) "Compliance agreement" means a written agreement
3 between the department and any person engaged in growing,
4 handling, or moving articles, plants, or plant products
5 regulated under this chapter, wherein the person agrees to
6 comply with stipulated requirements.

7 (10) "Department" means the Department of Agriculture
8 and Consumer Services of the state or its authorized
9 representative.

10 (11) "Director" means the director of the Division of
11 Plant Industry.

12 (12) "Distribution" means the movement of nursery
13 stock from the property where it is grown or kept to any other
14 noncontiguous property, regardless of the ownership of the
15 properties concerned.

16 (13) "Division" means the Division of Plant Industry
17 of the Department of Agriculture and Consumer Services.

18 (14) "Genetically engineered organism" means an
19 organism altered or produced through genetic modification from
20 a donor, vector, or recipient organism using recombinant DNA
21 techniques.

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

24 ~~(16)(15)~~ "Move" means to ship, offer for shipment,
25 receive for transportation, carry, or otherwise transport.

26 ~~(17)(16)~~ "Museum" means the Florida State Collection
27 of Arthropods.

28 ~~(18)(17)~~ "Noxious aquatic plant" means any part,
29 including, but not limited to, seeds or reproductive parts, of
30 an aquatic plant that has the potential to hinder the growth
31 of beneficial plants, interfere with irrigation or navigation,

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1 or adversely affect the public welfare or the natural
2 resources of this state.

3 ~~(19)(18)~~ "Noxious weed" means any living stage,
4 including, but not limited to, seeds and productive parts, of
5 a parasitic or other plant of a kind, or subdivision of a
6 kind, which may be a serious agricultural threat in Florida or
7 have a negative impact on the plant species protected under s.
8 581.185.

9 ~~(20)(19)~~ "Nursery" means any grounds or premises on or
10 in which nursery stock is grown, propagated, or held for sale
11 or distribution, except where aquatic plant species are tended
12 for harvest in the natural environment.

13 ~~(21)(20)~~ "Nurseryman" means any person engaged in the
14 production of nursery stock for sale or distribution.

15 ~~(22)(21)~~ "Nursery stock" means all plants, trees,
16 shrubs, vines, bulbs, cuttings, grafts, scions, or buds grown
17 or kept for or capable of propagation or distribution, unless
18 specifically excluded by the rules of the department.

19 ~~(23)(22)~~ "Official organ" means a printed document
20 published by the division for notification to the public and
21 industries in matters relating to division activities and in
22 which official announcements may be made.

23 ~~(24)(23)~~ "Places" means vessels, railroad cars,
24 automobiles, aircraft, and other vehicles; buildings; docks;
25 nurseries; orchards; and other premises where plants or plant
26 products are grown, kept, or handled.

27 ~~(25)(24)~~ "Plant broker" means a person who transacts
28 the transfer of plants from a seller to a buyer and who may or
29 may not be in actual physical possession of the plants.

30 ~~(26)(25)~~ "Plant pest" means any living stage of any
31 insects, mites, nematodes, slugs, snails, protozoa, or other

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1 invertebrate animals, bacteria, fungi, other parasitic plants
 2 or their reproductive parts, or viruses, or any organisms
 3 similar to or allied with any of the foregoing, including any
 4 genetically engineered organisms, or any infectious substances
 5 which can directly or indirectly injure or cause disease or
 6 damage in any plants or plant parts or any processed,
 7 manufactured, or other plant products.

8 ~~(27)(26)~~ "Plants and plant products" means trees,
 9 shrubs, vines, forage and cereal plants, and all other plants
 10 and plant parts, including cuttings, grafts, scions, buds,
 11 fruit, vegetables, roots, bulbs, seeds, wood, lumber, and all
 12 products made from them, unless specifically excluded by the
 13 rules of the department.

14 ~~(28)(27)~~ "Quarantine" means an official order issued
 15 by the department that regulates the movement of articles,
 16 plants, or plant products to prevent the spread of disease or
 17 pests.

18 ~~(29)(28)~~ "Stock dealer" means any person not a grower
 19 of nursery stock in this state who buys or otherwise acquires
 20 nursery stock for the purpose of reselling independently of
 21 any control of a nurseryman, agent, or plant broker, and who
 22 at any time maintains physical possession of such nursery
 23 stock.

24 ~~(30)(29)~~ "Technical council" means the Plant Industry
 25 Technical Council.

26 Section 20. Section 581.083, Florida Statutes, is
 27 amended to read:

28 581.083 Introduction or release of plant pests,
 29 noxious weeds, or organisms affecting plant life; cultivation
 30 of nonnative plants; special permit and security required.--

31 (1) The introduction into or release within this state

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1 of any plant pest, noxious weed, genetically engineered plant
 2 or plant pest, or any other organism which may directly or
 3 indirectly affect the plant life of this state as an injurious
 4 pest, parasite, or predator of other organisms, or any
 5 arthropod, is prohibited, except under special permit issued
 6 by the department through the division, which shall be the
 7 sole issuing agency for such special permits.

8 (2) Each application for a special permit shall be
 9 accompanied by a fee in an amount determined by the
 10 department, through its rulemaking authority, not to exceed
 11 \$50. The department may waive this fee by rule for
 12 governmental agencies.

13 (3) Except for research projects approved by the
 14 department, no permit for any organism shall be issued unless
 15 the department has determined that the parasite, predator, or
 16 biological control agent is specific to a target organism or
 17 plant and not likely to become a pest of plants or other
 18 beneficial organisms. The department may rely on findings of
 19 the Department of Environmental Protection, the United States
 20 Department of Agriculture, and other agencies in making any
 21 determination about organisms used for biological control.

22 (4) A person may not cultivate a nonnative plant,
 23 including a genetically engineered plant or a plant that has
 24 been introduced, for purposes of fuel production or purposes
 25 other than agriculture in plantings greater in size than 2
 26 contiguous acres, except under a special permit issued by the
 27 department through the division, which is the sole agency
 28 responsible for issuing such special permits. Such a permit is
 29 not required if the department, in conjunction with the
 30 Institute of Food and Agricultural Sciences at the University
 31 of Florida, determines that the plant is not invasive and

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1 subsequently exempts the plant by rule.

2 (a)1. Each application for a special permit must be
3 accompanied by a fee as described in subsection (2) and proof
4 that the applicant has obtained a bond in the form approved by
5 the department and issued by a surety company admitted to do
6 business in this state or by a certificate of deposit. The
7 application must also include, on a form provided by the
8 department, the name of the applicant and the applicant's
9 address or the address of the applicant's principal place of
10 business, a statement completely identifying the nonnative
11 plant to be cultivated, and a statement of the estimated cost
12 of removing and destroying the plant that is the subject of
13 the special permit and the basis for calculating or
14 determining that estimate. If the applicant is a corporation,
15 partnership, or other business entity, the applicant must also
16 provide in the application the name and address of each
17 officer, partner, or managing agent. The applicant shall
18 notify the department within 10 business days of any change of
19 address or change in the principal place of business. The
20 department shall mail all notices to the applicant's last
21 known address.

22 2. As used in this subsection, the term "certificate
23 of deposit" means a certificate of deposit at any recognized
24 financial institution doing business in the United States. The
25 department may not accept a certificate of deposit in
26 connection with the issuance of a special permit unless the
27 issuing institution is properly insured by the Federal Deposit
28 Insurance Corporation or the Federal Savings and Loan
29 Insurance Corporation.

30 (b) Upon obtaining a permit, the permitholder may
31 annually cultivate and maintain the nonnative plants as

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1 authorized by the special permit. If the permit holder ceases
 2 to maintain or cultivate the plants authorized by the special
 3 permit, if the permit expires, or if the permit holder ceases
 4 to abide by the conditions of the special permit, the
 5 permit holder shall immediately remove and destroy the plants
 6 that are subject to the permit, if any remain. The
 7 permit holder shall notify the department of the removal and
 8 destruction of the plants within 10 days after such event.

9 (c) If the department:

10 1. Determines that the permit holder is no longer
 11 maintaining or cultivating the plants subject to the special
 12 permit and has not removed and destroyed the plants authorized
 13 by the special permit;

14 2. Determines that the continued maintenance or
 15 cultivation of the plants presents an imminent danger to
 16 public health, safety, welfare and the environment;

17 3. Determines that the permit holder has exceeded the
 18 conditions of the authorized special permit; or

19 4. Receives a notice of cancellation of the surety
 20 bond,

21
 22 the department may issue an immediate final order, which shall
 23 be immediately appealable or enjoicable as provided by chapter
 24 120, directing the permit holder to immediately remove and
 25 destroy the plants authorized to be cultivated under the
 26 special permit. A copy of the immediate final order shall be
 27 mailed to the permit holder and to the surety company or
 28 financial institution that has provided security for the
 29 special permit, if applicable.

30 (d) If, upon issuance by the department of an
 31 immediate final order to the permit holder, the permit holder

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1 fails to remove and destroy the plants subject to the special
2 permit within 60 days after issuance of the order, or such
3 shorter period as is designated in the order as the public
4 health, safety, and welfare requires, the department may enter
5 the cultivated acreage and remove and destroy the plants that
6 are the subject of the special permit. If the permitholder
7 makes a written request to the department for an extension of
8 time to remove and destroy the plants which demonstrates
9 specific facts showing why the plants could not reasonably be
10 removed and destroyed in the applicable timeframe, the
11 department may extend the time for removing and destroying the
12 plants subject to the special permit. The reasonable costs and
13 expenses incurred by the department for removing and
14 destroying the plants subject to the special permit shall be
15 reimbursed to the department by the permitholder within 21
16 days after the date the permitholder and the surety company or
17 financial institution are served a copy of the department's
18 invoice for the costs and expenses incurred by the department
19 to remove and destroy the cultivated plants, along with a
20 notice of administrative rights, unless the permitholder or
21 the surety company or financial institution object to the
22 reasonableness of the invoice. In the event of an objection,
23 the permitholder or surety company or financial institution is
24 entitled to an administrative proceeding as provided by
25 chapter 120. Upon entry of a final order determining the
26 reasonableness of the incurred costs and expenses, the
27 permitholder shall have 15 days following service of the final
28 order to reimburse the department. Failure of the permitholder
29 to timely reimburse the department for the incurred costs and
30 expenses entitles the department to reimbursement from the
31 applicable bond or certificate of deposit.

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1 (e) Each permitholder shall maintain for each separate
2 growing location a bond or a certificate of deposit in an
3 amount determined by the department, but not less than 150
4 percent of the estimated cost of removing and destroying the
5 cultivated plants. The bond or certificate of deposit may not
6 exceed \$5,000 per acre, unless a higher amount is determined
7 by the department to be necessary to protect the public
8 health, safety, and welfare, or unless an exemption is granted
9 by the department based on conditions specified in the
10 application which would preclude the department from incurring
11 the cost of removing and destroying the cultivated plants and
12 would prevent injury to the public health, safety, and
13 welfare. The aggregate liability of the surety company or
14 financial institution to all persons for all breaches of the
15 conditions of the bond or certificate of deposit may not
16 exceed the amount of the bond or certificate of deposit. The
17 original bond or certificate of deposit required by this
18 subsection shall be filed with the department. A surety
19 company shall give the department 30 days' written notice of
20 cancellation by certified mail in order to cancel a bond.
21 Cancellation of a bond does not relieve a surety company or
22 financial institution of liability for paying to the
23 department all costs and expenses incurred or to be incurred
24 for removing and destroying the permitted plants covered by an
25 immediate final order authorized under paragraph (c). The bond
26 or certificate of deposit must be provided or assigned in the
27 exact name in which the applicant applies for the special
28 permit. The penal sum of the surety bond or certificate of
29 deposit to be furnished to the department by a permitholder in
30 the amount specified in this paragraph must guarantee payment
31 of the costs and expenses incurred or to be incurred by the

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1 department for removing and destroying the plants cultivated
2 under the issued special permit. The bond or certificate of
3 deposit assignment or agreement must be upon a form prescribed
4 or approved by the department and must be conditioned to
5 secure the faithful accounting for and payment of all costs
6 and expenses incurred by the department for removing and
7 destroying all plants cultivated under the special permit. The
8 bond or certificate of deposit assignment or agreement must
9 include terms binding the instrument to the Commissioner of
10 Agriculture. Such a certificate of deposit shall be presented
11 with an assignment of the permitholder's rights in the
12 certificate in favor of the Commissioner of Agriculture on a
13 form prescribed by the department and a letter from the
14 issuing institution acknowledging that the assignment has been
15 properly recorded on the books of the issuing institution and
16 will be honored by the issuing institution. Such an assignment
17 is irrevocable while the special permit is in effect and for
18 an additional period of 6 months after termination of the
19 special permit if operations to remove and destroy the
20 permitted plants are not continuing and if the department's
21 invoice remains unpaid by the permitholder under the issued
22 immediate final order. If operations to remove and destroy the
23 plants are pending, the assignment remains in effect until all
24 plants are removed and destroyed and the department's invoice
25 has been paid. The bond or certificate of deposit may be
26 released by the assignee of the surety company or financial
27 institution to the permitholder, or to the permitholder's
28 successors, assignee, or heirs, if operations to remove and
29 destroy the permitted plants are not pending and no invoice
30 remains unpaid at the conclusion of 6 months after the last
31 effective date of the special permit. The department may not

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1 accept a certificate of deposit that contains any provision
 2 that would give to any person any prior rights or claim on the
 3 proceeds or principal of such a certificate of deposit. The
 4 department shall determine by rule whether an annual bond or
 5 certificate of deposit will be required. The amount of such a
 6 bond or certificate of deposit shall be increased, upon order
 7 of the department, at any time if the department finds such an
 8 increase to be warranted by the cultivating operations of the
 9 permitholder. In the same manner, the amount of such a bond or
 10 certificate of deposit may be decreased when a decrease in the
 11 cultivating operations warrants such a decrease. This
 12 paragraph applies to any bond or certificate of deposit,
 13 regardless of the anniversary date of its issuance,
 14 expiration, or renewal.

15 (f) In order to carry out the purposes of this
 16 subsection, the department or its agents may require from any
 17 permitholder verified statements of the cultivated acreage
 18 subject to the special permit and may review the
 19 permitholder's business or cultivation records at her or his
 20 place of business during normal business hours in order to
 21 determine the acreage cultivated. The failure of a
 22 permitholder to furnish such a statement, to make such records
 23 available, or to make and deliver a new or additional bond or
 24 certificate of deposit is cause for suspension of the special
 25 permit. If the department finds such failure to be willful,
 26 the special permit may be revoked.

27 Section 21. Subsection (3) of section 585.002, Florida
 28 Statutes, is amended to read:

29 585.002 Department control; continuance of powers,
 30 duties, rules, orders, etc.--

31 (3) The department, to the exclusion of all other

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1 state agencies, shall have regulatory authority over the
 2 possession, control, care, and maintenance of ostriches, emus,
 3 ~~and rheas, and bison~~ domesticated and confined for commercial
 4 farming purposes, except those kept and maintained on hunting
 5 preserves or game farms or primarily for exhibition purposes
 6 in zoos, carnivals, circuses, and other such establishments
 7 where such species are kept primarily for display to the
 8 public.

9 Section 22. Paragraph (c) of subsection (3) of section
 10 590.125, Florida Statutes, is amended to read:

11 590.125 Open burning authorized by the division.--

12 (3) CERTIFIED PRESCRIBED BURNING; LEGISLATIVE FINDINGS
 13 AND PURPOSE.--

14 (c) Neither a property owner nor ~~or~~ his or her agent
 15 is ~~neither~~ liable pursuant to s. 590.13 for damage or injury
 16 caused by the fire or resulting smoke or ~~not~~ considered to be
 17 in violation of subsection (2) for burns conducted in
 18 accordance with this subsection unless gross negligence is
 19 proven.

20 Section 23. Assessment of obsolete agricultural
 21 equipment.--

22 (1) For purposes of assessment for ad valorem property
 23 taxes, obsolete agricultural equipment shall be deemed to have
 24 a market value no greater than its value for salvage. As used
 25 in this section, the term "agricultural equipment" means any
 26 equipment that qualifies for the sales tax exemption provided
 27 in section 212.08(3), Florida Statutes, wherever purchased.
 28 Agricultural equipment shall be considered obsolete for
 29 purposes of this section if it has been discarded, outmoded,
 30 fully depreciated over its useful life, or is no longer in
 31 general use.

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1 (2) Any taxpayer claiming the right of assessment for
2 ad valorem taxes under this section shall so state in a return
3 filed as provided by law, giving a brief description of the
4 equipment and its use. The property appraiser may require the
5 taxpayer to produce any additional information as necessary in
6 order to establish the taxpayer's right to have such property
7 classified as obsolete under this section for purposes of the
8 assessment.

9 Section 24. If any provision of this act or the
10 application thereof to any person or circumstance is held
11 invalid, the invalidity does not affect other provisions or
12 applications of the act which can be given effect without the
13 invalid provision or application, and to this end the
14 provisions of this act are severable.

15 Section 25. This act shall take effect July 1, 2005.

16
17
18 ===== T I T L E A M E N D M E N T =====

19 And the title is amended as follows:

20 Delete everything before the enacting clause

21

22 and insert:

23

A bill to be entitled

24

An act relating to agriculture; amending s.

25

193.451, F.S.; clarifying the value for purpose

26

of assessment for ad valorem taxes of certain

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property leased by the Department of

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Agriculture and Consumer Services; providing

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intent for retroactive application; amending s.

30

212.02, F.S.; revising definitions; amending

31

ss. 372.921 and 372.922, F.S.; conforming

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1 provisions relating to regulatory authority
 2 over the possession, control, care, and
 3 maintenance of bison; creating s. 450.175,
 4 F.S.; providing a part title; repealing s.
 5 450.211, F.S., relating to the advisory
 6 committee for the Legislative Commission on
 7 Migrant Labor; amending s. 487.2031, F.S.;
 8 redefining the term "material safety data
 9 sheet" for purposes of the Florida Agricultural
 10 Worker Safety Act; creating s. 487.2042, F.S.;
 11 providing for investigation of complaints;
 12 providing criteria for the commencement of an
 13 investigation; providing for exemption from
 14 civil liability under certain circumstances;
 15 providing penalties for making a false
 16 complaint; amending s. 502.014, F.S.; deleting
 17 a duty of the department relating to issuance
 18 of a temporary marketing permit for milk and
 19 milk products and a fee therefor; amending s.
 20 502.091, F.S.; deleting a reference to a milk
 21 type no longer produced; amending s. 503.011,
 22 F.S.; updating a reference in the definition of
 23 the term "frozen desserts"; amending s. 531.39,
 24 F.S.; deleting an outdated reference relating
 25 to state standards for weights and measures;
 26 amending s. 531.47, F.S.; revising provisions
 27 relating to packages on which information is
 28 required; amending s. 531.49, F.S.; revising
 29 provisions relating to advertising packaged
 30 commodities; amending s. 570.07, F.S.;
 31 clarifying the power of the Department of

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1 Agriculture and Consumer Services; providing an
2 additional power of the Department of
3 Agriculture and Consumer Services; creating s.
4 570.076, F.S.; authorizing the department to
5 adopt rules establishing the Environmental
6 Stewardship Certification Program; providing
7 program standards; providing requirements for
8 receipt of an agricultural certification;
9 authorizing the Soil and Water Conservation
10 Council to develop and recommend additional
11 criteria; authorizing the department and the
12 Institute of Food and Agricultural Sciences at
13 the University of Florida to develop, deliver,
14 and certify completion of a curriculum;
15 amending s. 570.9135, F.S.; correcting a
16 cross-reference; amending s. 570.952, F.S.;
17 amending the membership of the Florida
18 Agriculture Center and Horse Park Authority;
19 providing criteria for expiration of terms;
20 deleting a requirement to submit information to
21 the Legislature; amending s. 581.011, F.S.;
22 defining the term "invasive plant"; amending s.
23 581.083, F.S.; prohibiting the cultivation of
24 nonnative plants for purposes of fuel
25 production or purposes other than agriculture
26 in plantings greater than a specified size,
27 except under a special permit issued by the
28 department; providing an exemption; requiring
29 application for a special permit and a fee
30 therefor; requiring an applicant to show proof
31 of security through a bond or certificate of

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1 deposit; defining the term "certificate of
2 deposit"; requiring removal and destruction of
3 plants under certain circumstances; specifying
4 circumstances under which the department may
5 issue a final order for plant removal and
6 destruction; requiring reimbursement of costs
7 and expenses for plant removal and destruction
8 by the department; providing requirements for
9 maintenance of a bond or certificate of deposit
10 by a permit holder; providing requirements
11 relating to assignment and cancellation of a
12 bond or certificate of deposit; authorizing a
13 requirement for an annual bond or certificate
14 of deposit and an increase or decrease in the
15 amount of security required; authorizing the
16 department to verify statements and accounts
17 with respect to cultivated acreage; providing
18 for suspension or revocation of a special
19 permit under certain circumstances; amending s.
20 585.002, F.S.; providing for department
21 regulatory authority over the possession,
22 control, care, and maintenance of bison;
23 providing an exception; amending s. 590.125,
24 F.S.; clarifying liability with respect to
25 prescribed burning; providing for obsolete
26 agricultural equipment to be assessed at its
27 salvage value for purposes of ad valorem
28 taxation; defining the term "agricultural
29 equipment"; providing a procedure for a
30 taxpayer to claim the right of assessment;
31 authorizing the property appraiser to require

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1 information establishing a taxpayer's right to
2 the classification; providing severability;
3 providing an effective date.
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