

1 Certification Program; providing program
2 standards; providing requirements for receipt
3 of an agricultural certification; authorizing
4 the Soil and Water Conservation Council to
5 develop and recommend additional criteria;
6 authorizing the department and the Institute of
7 Food and Agricultural Sciences at the
8 University of Florida to develop, deliver, and
9 certify completion of a curriculum; amending s.
10 570.9135, F.S.; correcting a reference;
11 amending s. 581.083, F.S.; prohibiting the
12 cultivation of nonnative plants for purposes of
13 fuel production or purposes other than
14 agricultural in plantings greater than a
15 specified size, except under a special permit
16 issued by the department; providing an
17 exemption; requiring application for a special
18 permit and a fee therefor; requiring an
19 applicant to show proof of security through a
20 bond or certificate of deposit; defining the
21 term "certificate of deposit"; requiring the
22 removal and destruction of plants under certain
23 circumstances; specifying the circumstances
24 under which the department may issue a final
25 order for plant removal and destruction;
26 requiring reimbursement of costs and expenses
27 for plant removal and destruction by the
28 department; providing requirements for
29 maintenance of a bond or certificate of deposit
30 by a permitholder; providing requirements
31 relating to assignment and cancellation of a

1 bond or certificate of deposit; authorizing the
2 requirement of an annual bond or certificate of
3 deposit and an increase or decrease in the
4 amount of security required; authorizing the
5 department to verify statements and accounts
6 with respect to cultivated acreage; providing
7 for the suspension or revocation of a special
8 permit under certain circumstances; amending s.
9 585.002, F.S.; providing for the department's
10 regulatory authority over the possession,
11 control, care, and maintenance of bison;
12 providing an exception; amending s. 590.125,
13 F.S.; clarifying liability with respect to
14 prescribed burning; providing for obsolete
15 agricultural equipment to be assessed at its
16 value as salvage; defining the term
17 "agricultural equipment"; providing a procedure
18 for a taxpayer to claim the right of assessment
19 under this section; authorizing the property
20 appraiser to require information establishing a
21 taxpayer's right to the classification;
22 providing severability; providing an effective
23 date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Subsection (8) of section 372.921, Florida
28 Statutes, is amended to read:

29 372.921 Exhibition or sale of wildlife.--

30 (8) This section shall not apply to the possession,
31 control, care, and maintenance of ostriches, emus, ~~and~~ ruelas,

1 and bison domesticated and confined for commercial farming
2 purposes, except those kept and maintained on hunting
3 preserves or game farms or primarily for exhibition purposes
4 in zoos, carnivals, circuses, and other such establishments
5 where such species are kept for display to the public for a
6 fee.

7 Section 2. Subsection (6) of section 372.922, Florida
8 Statutes, is amended to read:

9 372.922 Personal possession of wildlife.--

10 (6) This section shall not apply to the possession,
11 control, care, and maintenance of ostriches, emus, ~~and~~ rheas,
12 and bison domesticated and confined for commercial farming
13 purposes, except those kept and maintained on hunting
14 preserves or game farms or primarily for exhibition purposes
15 in zoos, carnivals, circuses, and other such establishments
16 where such species are kept for display to the public for a
17 fee.

18 Section 3. Section 450.175, Florida Statutes, is
19 created to read:

20 450.175 Short title.--Part II of this chapter may be
21 cited as the "Alfredo Bahena Act."

22 Section 4. Section 450.211, Florida Statutes, is
23 repealed.

24 Section 5. Subsection (7) of section 487.2031, Florida
25 Statutes, is amended to read:

26 487.2031 Definitions.--For the purposes of this part,
27 the term:

28 (7) "Material safety data sheet" means written,
29 electronic, or printed material concerning an agricultural
30 pesticide that sets forth the following information:
31

1 (a) The chemical name and the common name of the
2 agricultural pesticide.

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

5 1. The potential for fire, explosions, corrosivity,
6 and reactivity.

7 2. The known acute health effects and chronic health
8 effects of exposure to the agricultural pesticide, including
9 those medical conditions that are generally recognized as
10 being aggravated by exposure to the agricultural pesticide.

11 3. The primary routes of entry and symptoms of
12 overexposure.

13 (c) The proper handling practices, necessary personal
14 protective equipment, and other proper or necessary safety
15 precautions in circumstances that involve the use of or
16 exposure to the agricultural pesticide, including appropriate
17 emergency treatment in case of overexposure.

18 (d) The emergency procedures for spills, fire,
19 disposal, and first aid.

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

24 (f) The year and month, if available, that the
25 information was compiled and the name, address, and emergency
26 telephone number of the manufacturer responsible for preparing
27 the information.

28 Section 6. Subsection (5) of section 502.014, Florida
29 Statutes, is repealed.

30 Section 7. Subsection (1) of section 502.091, Florida
31 Statutes, is amended to read:

1 502.091 Milk and milk products which may be sold.--

2 (1) Only Grade A pasteurized milk and milk products ~~or~~
3 ~~certified pasteurized milk~~ shall be sold to the final consumer
4 or to restaurants, soda fountains, grocery stores, or similar
5 establishments.

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

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

23 Section 8. Subsection (2) of section 503.011, Florida
24 Statutes, is amended to read:

25 503.011 Definitions.--The following definitions shall
26 apply in the interpretation and enforcement of this chapter:

27 (2) "Frozen desserts" means the foods which conform to
28 the provisions of "definitions and standards of identity for
29 frozen desserts," United States Food and Drug Administration,
30 21 C.F.R. part 135(2004)(~~1990~~), and foods, defined by rule
31 of the department, which resemble but do not conform to

1 federal definitions. The term also includes, but is not
2 limited to, "quiescently frozen confection," "quiescently
3 frozen dairy confection," and "frozen dietary dairy dessert
4 and frozen dietary dessert."

5 Section 9. Section 531.39, Florida Statutes, is
6 amended to read:

7 531.39 State standards.--Weights and measures that are
8 traceable to the United States prototype standards supplied by
9 the Federal Government (~~Pub. L. No. 89-164, 1965~~), or approved
10 as being satisfactory by the National Institute of Standards
11 and Technology, shall be the state primary standards of
12 weights and measures, and shall be maintained in such
13 calibration as prescribed by the National Institute of
14 Standards and Technology. In addition, there shall be
15 provided by the state such secondary standards as may be
16 necessary to carry out the provisions of this chapter. The
17 secondary standards shall be verified upon their initial
18 receipt and as often thereafter as deemed necessary by the
19 department.

20 Section 10. Section 531.47, Florida Statutes, is
21 amended to read:

22 531.47 Information required on packages.--Except as
23 otherwise provided in this chapter or by rules adopted
24 pursuant thereto, any package ~~introduced in intrastate~~
25 ~~commerce~~, kept for the purpose of sale, or offered or exposed
26 for sale ~~in intrastate commerce~~ shall bear on the outside of
27 the package a definite, plain, and conspicuous declaration of:

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

31

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

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

7 Section 11. Section 531.49, Florida Statutes, is
8 amended to read:

9 531.49 Advertising packages for sale.--Whenever a
10 packaged commodity is advertised in any manner with the retail
11 price stated, there shall be closely and conspicuously
12 associated with the retail price a declaration of quantity as
13 is required by law or rule to appear on the package. ~~When a~~
14 ~~dual declaration is required, only the declaration that sets~~
15 ~~forth the quantity in terms of the smaller unit of weight or~~
16 ~~measure need appear in the advertisement.~~

17 Section 12. Section 570.076, Florida Statutes, is
18 created to read:

19 570.076 Environmental Stewardship Certification
20 Program.--The department may, by rule, establish the
21 Environmental Stewardship Certification Program consistent
22 with this section. A rule adopted under this section must be
23 developed in consultation with state universities,
24 agricultural organizations, and other interested parties.

25 (1) The program must:

26 (a) Be integrated, to the maximum extent practicable,
27 with programs that are sponsored by agricultural organizations
28 or state universities.

29 (b) Be designed to recognize and promote agricultural
30 operations or homeowner practices that demonstrate exemplary
31

1 resource management that is related to environmental
2 stewardship.

3 (c) Include a process to periodically review a
4 certification to ensure compliance with the program
5 requirements, including implementation by the
6 certificateholder.

7 (d) Require periodic continuing education in relevant
8 environmental stewardship issues in order to maintain
9 certification.

10 (2) The department shall provide an agricultural
11 certification under this program for the implementation of one
12 or more of the following criteria:

13 (a) A voluntary agreement between an agency and an
14 agricultural producer for environmental improvement or
15 water-resource protection.

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

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

20 (3) The Soil and Water Conservation Council created
21 under s. 582.06 may develop and recommend to the department
22 for adoption additional criteria for receipt of an
23 agricultural certification which may include, but need not be
24 limited to:

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

26 (b) Promotion of environmental awareness and
27 responsible resource stewardship in agricultural or urban
28 communities.

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

31

1 (4) If needed, the department and the Institute of
2 Food and Agricultural Sciences at the University of Florida
3 may jointly develop a curriculum that provides instruction
4 concerning environmental issues pertinent to agricultural
5 certification and deliver the curriculum to, and certify its
6 completion by, any person who seeks certification or to
7 maintain certification.

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

11 Section 13. Paragraph (a) of subsection (4) of section
12 570.9135, Florida Statutes, is amended to read:

13 570.9135 Beef Market Development Act; definitions;
14 Florida Beef Council, Inc., creation, purposes, governing
15 board, powers, and duties; referendum on assessments imposed
16 on gross receipts from cattle sales; payments to organizations
17 for services; collecting and refunding assessments; vote on
18 continuing the act; council bylaws.--

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

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

24 Section 14. Section 581.083, Florida Statutes, is
25 amended to read:

26 581.083 Introduction or release of plant pests,
27 noxious weeds, or organisms affecting plant life; cultivation
28 of nonnative plants; special permit and security required.--

29 (1) The introduction into or release within this state
30 of any plant pest, noxious weed, genetically engineered plant
31 or plant pest, or any other organism which may directly or

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

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

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

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

31

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

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

29 (b) Upon obtaining a permit, the permitholder may
30 annually cultivate and maintain the nonnative plants as
31 authorized by the special permit. If the permitholder ceases

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

8 (c) If the department:

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

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

16 3. Determines that the permitholder has exceeded the
17 conditions of the authorized special permit; or

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

20
21 the department may issue an immediate final order, which shall
22 be immediately appealable or enjoinable as provided by chapter
23 120, directing the permitholder to immediately remove and
24 destroy the plants authorized to be cultivated under the
25 special permit. A copy of the immediate final order shall be
26 mailed to the permitholder and to the surety company or
27 financial institution that has provided security for the
28 special permit, if applicable.

29 (d) If, upon issuance by the department of an
30 immediate final order to the permitholder, the permitholder
31 fails to remove and destroy the plants subject to the special

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

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

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

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 15. 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

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

10 Section 16. Paragraph (c) of subsection (3) of section
11 590.125, Florida Statutes, is amended to read:

12 590.125 Open burning authorized by the division.--

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

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

21 Section 17. Assessment of obsolete agricultural
22 equipment--

23 (1) For purposes of assessment for ad valorem property
24 taxes, obsolete agricultural equipment shall be deemed to have
25 a market value no greater than its value for salvage. As used
26 in this section, the term "agricultural equipment" means any
27 equipment that qualifies for the sales tax exemption provided
28 in section 212.08(3), Florida Statutes, wherever purchased.
29 Agricultural equipment shall be considered obsolete for
30 purposes of this section if it is no longer commonly used by
31 the taxpayer in agricultural production.

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 18. 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 19. This act shall take effect July 1, 2005.

16
17 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
18 COMMITTEE SUBSTITUTE FOR
19 Senate Bill 858

20 Committee Substitute for Senate Bill 858 is different from
21 Senate Bill 858 in that it:

- 22 1. Clarifies the department's jurisdiction over bison raised
23 on farm operations;
- 24 2. Amends the definition of "material safety data sheet" to
25 allow dissemination of information through electronic
26 means;
- 27 3. Removes or changes outdated references;
- 28 4. Establishes an environmental stewardship program which
29 agricultural producers could voluntarily join;
- 30 5. Revises provisions regarding civil liability for
31 prescribed burns; and
6. Provides for obsolete agricultural equipment to be
 assessed at its value as salvage.