

By the Committees on Judiciary; Environmental Preservation;
Agriculture; and Senator Smith

590-2332-05

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

1 F.S.; deleting an outdated reference relating
2 to state standards for weights and measures;
3 amending s. 531.47, F.S.; revising provisions
4 relating to packages on which information is
5 required; amending s. 531.49, F.S.; revising
6 provisions relating to advertising packaged
7 commodities; amending s. 570.07, F.S.;
8 clarifying the power of the Department of
9 Agriculture and Consumer Services; providing an
10 additional power of the Department of
11 Agriculture and Consumer Services; creating s.
12 570.076, F.S.; authorizing the department to
13 adopt rules establishing the Environmental
14 Stewardship Certification Program; providing
15 program standards; providing requirements for
16 receipt of an agricultural certification;
17 authorizing the Soil and Water Conservation
18 Council to develop and recommend additional
19 criteria; authorizing the department and the
20 Institute of Food and Agricultural Sciences at
21 the University of Florida to develop, deliver,
22 and certify completion of a curriculum;
23 amending s. 570.9135, F.S.; correcting a
24 cross-reference; amending s. 570.952, F.S.;
25 amending the membership of the Florida
26 Agriculture Center and Horse Park Authority;
27 providing criteria for expiration of terms;
28 deleting a requirement to submit information to
29 the Legislature; amending s. 581.011, F.S.;
30 defining the term "invasive plant"; amending s.
31 581.083, F.S.; prohibiting the cultivation of

1 nonnative plants for purposes of fuel
2 production or purposes other than agriculture
3 in plantings greater than a specified size,
4 except under a special permit issued by the
5 department; providing an exemption; requiring
6 application for a special permit and a fee
7 therefor; requiring an applicant to show proof
8 of security through a bond or certificate of
9 deposit; defining the term "certificate of
10 deposit"; requiring removal and destruction of
11 plants under certain circumstances; specifying
12 circumstances under which the department may
13 issue a final order for plant removal and
14 destruction; requiring reimbursement of costs
15 and expenses for plant removal and destruction
16 by the department; providing requirements for
17 maintenance of a bond or certificate of deposit
18 by a permit holder; providing requirements
19 relating to assignment and cancellation of a
20 bond or certificate of deposit; authorizing a
21 requirement for an annual bond or certificate
22 of deposit and an increase or decrease in the
23 amount of security required; authorizing the
24 department to verify statements and accounts
25 with respect to cultivated acreage; providing
26 for suspension or revocation of a special
27 permit under certain circumstances; amending s.
28 585.002, F.S.; providing for department
29 regulatory authority over the possession,
30 control, care, and maintenance of bison;
31 providing an exception; amending s. 590.125,

1 F.S.; clarifying liability with respect to
2 prescribed burning; providing severability;
3 providing an effective date.
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5 Be It Enacted by the Legislature of the State of Florida:
6

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

9 193.451 Annual growing of agricultural crops,
10 nonbearing fruit trees, nursery stock; taxability.--

11 (3) Personal property leased or subleased by the
12 Department of Agriculture and Consumer Services and used in
13 the inspection, grading, or classification of citrus fruit
14 shall be deemed to have value for purposes of assessment for
15 ad valorem property taxes no greater than its market value as
16 salvage. It is the expressed intent of the Legislature that
17 this subsection shall have retroactive application to December
18 31, 2003.

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

21 372.921 Exhibition or sale of wildlife.--

22 (8) This section shall not apply to the possession,
23 control, care, and maintenance of ostriches, emus, ~~and~~ rheas,
24 and bison domesticated and confined for commercial farming
25 purposes, except those kept and maintained on hunting
26 preserves or game farms or primarily for exhibition purposes
27 in zoos, carnivals, circuses, and other such establishments
28 where such species are kept primarily for display to the
29 public.

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

1 372.922 Personal possession of wildlife.--

2 (6) This section shall not apply to the possession,
3 control, care, and maintenance of ostriches, emus, ~~and~~ rheas,
4 and bison domesticated and confined for commercial farming
5 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 primarily for display to the
9 public.

10 Section 4. Section 450.175, Florida Statutes, is
11 created to read:

12 450.175 Short title.--Part II of this chapter may be
13 cited as the "Alfredo Bahena Act."

14 Section 5. Section 450.211, Florida Statutes, is
15 repealed.

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

18 487.2031 Definitions.--For the purposes of this part,
19 the term:

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

23 (a) The chemical name and the common name of the
24 agricultural pesticide.

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

27 1. The potential for fire, explosions, corrosivity,
28 and reactivity.

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

3 3. The primary routes of entry and symptoms of
4 overexposure.

5 (c) The proper handling practices, necessary personal
6 protective equipment, and other proper or necessary safety
7 precautions in circumstances that involve the use of or
8 exposure to the agricultural pesticide, including appropriate
9 emergency treatment in case of overexposure.

10 (d) The emergency procedures for spills, fire,
11 disposal, and first aid.

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

16 (f) The year and month, if available, that the
17 information was compiled and the name, address, and emergency
18 telephone number of the manufacturer responsible for preparing
19 the information.

20 Section 7. Section 487.2042, Florida Statutes, is
21 created to read:

22 487.2042 Submission and investigation of complaints.--

23 (1) The department shall cause to be investigated any
24 complaint that is filed under this part if the complaint is in
25 writing, is signed by the complainant, and is legally
26 sufficient. A complaint is legally sufficient if it contains
27 ultimate facts that show that a violation of this part, or the
28 rules adopted under this part, may have occurred. In order to
29 determine legal sufficiency, the department may require
30 supporting information or documentation. The department may
31 investigate an anonymous complaint or a complaint made by a

1 confidential informant if the complaint is in writing and is
2 legally sufficient, if the alleged violation of law or rules
3 is substantial, and if the department has reason to believe,
4 after preliminary inquiry, that the alleged violations in the
5 complaint are true. The department may initiate an
6 investigation if it has reasonable cause to believe that a
7 person has violated this part or the rules adopted under this
8 part.

9 (2) A privilege against civil liability is granted to
10 any complainant or any witness with regard to information
11 furnished with respect to any investigation or proceeding
12 pursuant to this chapter, unless the complainant or witness
13 acted in bad faith or with malice in providing such
14 information.

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

19 Section 8. Section 502.014, Florida Statutes, is
20 amended to read:

21 502.014 Powers and duties.--

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

24 (a) The production, processing, and distribution of
25 milk and milk products.

26 (b) The sanitation and sanitary practices of
27 establishments where food and drink, including milk and milk
28 products, are sold for consumption on the premises, except
29 food service establishments regulated under chapters 381 and
30 509.

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

4 (d) The laboratory work of testing and analyzing milk
5 and milk products.

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

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

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

31

1 (4) The department shall define by rule "cottage
2 cheese," "dry-curd cottage cheese," and "lowfat cottage
3 cheese." The department shall periodically update these
4 definitions to maintain conformity with the federal
5 definitions.

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

10 ~~(b) The department shall establish a fee, not to
11 exceed \$100, for the issuance of a state temporary marketing
12 permit or the use of a federal permit in the state. The fee
13 shall cover all costs of issuing the state permit or
14 processing the federal permit.~~

15 (5)(6) The department may impound any reconstituted or
16 recombined milk or any adulterated or misbranded milk or milk
17 product to prevent its use for human consumption, and may
18 dispose of it in a manner that does not create a nuisance.

19 (6)(7) The department has authority to adopt rules
20 pursuant to ss. 120.536(1) and 120.54 to implement and enforce
21 the provisions of this chapter. In adopting these rules, the
22 department shall be guided by and may conform to the
23 definitions and standards of the administrative procedures and
24 provisions of the pasteurized milk ordinance. The rules shall
25 include, but are not limited to:

26 (a) Standards for milk and milk products.

27 (b) Provisions for the production, transportation,
28 processing, handling, sampling, examination, grading,
29 labeling, and sale of all milk and milk products and imitation
30 and substitute milk and milk products sold for public
31 consumption in this state.

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

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

5 (7)~~(8)~~ The department shall not conduct routine tests
6 or inspections on raw milk that is shipped from outside the
7 state. Nothing in this subsection shall be construed to limit
8 the authority of the department to review industry records or
9 sample milk at any stage of production, processing, or
10 distribution in cases of suspected hazard to public health.

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

13 502.091 Milk and milk products which may be sold.--

14 (1) Only Grade A pasteurized milk and milk products ~~or~~
15 ~~certified pasteurized milk~~ shall be sold to the final consumer
16 or to restaurants, soda fountains, grocery stores, or similar
17 establishments.

18 (a) In an emergency, however, the department may
19 authorize the sale of reconstituted pasteurized milk products,
20 or pasteurized milk and milk products that have not been
21 graded or the grade of that is unknown, in which case such
22 milk and milk products shall be appropriately labeled, as
23 determined by the department.

24 (b) If the department determines that milk is fit for
25 human consumption even though it is less than Grade A because
26 the producer failed to comply with the sanitation or bacterial
27 standards defined in this chapter, or if any specific shipment
28 of milk fails to comply with standards of the pasteurized milk
29 ordinance, the department may issue a permit allowing the milk
30 to be used in ungraded products, such as frozen desserts,
31 which are being processed by such milk plant. During

1 | processing of such milk, it shall be pasteurized at a
2 | temperature of at least 175° F. for at least 15 seconds or at
3 | least 160° F. for at least 30 minutes.

4 | Section 10. Subsection (2) of section 503.011, Florida
5 | Statutes, is amended to read:

6 | 503.011 Definitions.--The following definitions shall
7 | apply in the interpretation and enforcement of this chapter:

8 | (2) "Frozen desserts" means the foods which conform to
9 | the provisions of "definitions and standards of identity for
10 | frozen desserts," United States Food and Drug Administration,
11 | 21 C.F.R. part 135(2004)(~~1990~~), and foods, defined by rule
12 | of the department, which resemble but do not conform to
13 | federal definitions. The term also includes, but is not
14 | limited to, "quiescently frozen confection," "quiescently
15 | frozen dairy confection," and "frozen dietary dairy dessert
16 | and frozen dietary dessert."

17 | Section 11. Section 531.39, Florida Statutes, is
18 | amended to read:

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

1 Section 12. Section 531.47, Florida Statutes, is
2 amended to read:

3 531.47 Information required on packages.--Except as
4 otherwise provided in this chapter or by rules adopted
5 pursuant thereto, any package ~~introduced in intrastate~~
6 ~~commerce~~, kept for the purpose of sale, or offered or exposed
7 for sale ~~in intrastate commerce~~ shall bear on the outside of
8 the package a definite, plain, and conspicuous declaration of:

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

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

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

18 Section 13. Section 531.49, Florida Statutes, is
19 amended to read:

20 531.49 Advertising packages for sale.--Whenever a
21 packaged commodity is advertised in any manner with the retail
22 price stated, there shall be closely and conspicuously
23 associated with the retail price a declaration of quantity as
24 is required by law or rule to appear on the package. ~~When a~~
25 ~~dual declaration is required, only the declaration that sets~~
26 ~~forth the quantity in terms of the smaller unit of weight or~~
27 ~~measure need appear in the advertisement.~~

28 Section 14. Subsection (16) of section 570.07, Florida
29 Statutes, is amended, and subsection (41) is added to that
30 section, to read:

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1 570.07 Department of Agriculture and Consumer
2 Services; functions, powers, and duties.--The department shall
3 have and exercise the following functions, powers, and duties:
4 (16) To enforce the state laws and rules relating to:
5 (a) Fruit and vegetable inspection and grading;
6 (b) Pesticide spray, residue inspection, and removal;
7 (c) Registration, labeling, inspection, and analysis
8 of commercial stock feeds and commercial fertilizers;
9 (d) Classification, inspection, and sale of poultry
10 and eggs;
11 (e) Registration, inspection, and analysis of
12 gasolines and oils;
13 (f) Registration, labeling, inspection, and analysis
14 of pesticides;
15 (g) Registration, labeling, inspection, germination
16 testing, and sale of seeds, both common and certified;
17 (h) Weights, measures, and standards;
18 (i) Foods, as set forth in the Florida Food Safety
19 Act;
20 (j) Inspection and certification of honey;
21 (k) Sale of liquid fuels;
22 (l) Licensing of dealers in agricultural products;
23 (m) Administration and enforcement of all regulatory
24 legislation applying to milk and milk products, ice cream, and
25 frozen desserts;
26 (n) Recordation and inspection of marks and brands of
27 livestock; and
28 (o) All other regulatory laws relating to agriculture.
29
30 In order to ensure uniform health and safety standards, the
31 adoption of standards and fines in the subject areas of

1 paragraphs (a)-(n) is expressly preempted to the state and the
2 Department of Agriculture and Consumer Services. Any local
3 government enforcing the subject areas of paragraphs (a)-(n)
4 must use the standards and fines set forth in the pertinent
5 statutes or any rules adopted by the department pursuant to
6 those statutes.

7 (41) Notwithstanding any other provision of law, to
8 use any program for online procurement of commodities or
9 contractual services, but not to be obligated to do so.

10 Section 15. Section 570.076, Florida Statutes, is
11 created to read:

12 570.076 Environmental Stewardship Certification
13 Program.--The department may, by rule, establish the
14 Environmental Stewardship Certification Program consistent
15 with this section. A rule adopted under this section must be
16 developed in consultation with state universities,
17 agricultural organizations, and other interested parties.

18 (1) The program must:

19 (a) Be integrated, to the maximum extent practicable,
20 with programs that are sponsored by agricultural organizations
21 or state universities.

22 (b) Be designed to recognize and promote agricultural
23 operations or homeowner practices that demonstrate exemplary
24 resource management that is related to environmental
25 stewardship.

26 (c) Include a process to periodically review a
27 certification to ensure compliance with the program
28 requirements, including implementation by the
29 certificateholder.

30
31

1 (d) Require periodic continuing education in relevant
2 environmental stewardship issues in order to maintain
3 certification.

4 (2) The department shall provide an agricultural
5 certification under this program for the implementation of one
6 or more of the following criteria:

7 (a) A voluntary agreement between an agency and an
8 agricultural producer for environmental improvement or
9 water-resource protection.

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

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

14 (3) The Soil and Water Conservation Council created
15 under s. 582.06 may develop and recommend to the department
16 for adoption additional criteria for receipt of an
17 agricultural certification which may include, but need not be
18 limited to:

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

20 (b) Promotion of environmental awareness and
21 responsible resource stewardship in agricultural or urban
22 communities.

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

25 (4) If needed, the department and the Institute of
26 Food and Agricultural Sciences at the University of Florida
27 may jointly develop a curriculum that provides instruction
28 concerning environmental issues pertinent to agricultural
29 certification and deliver the curriculum to, and certify its
30 completion by, any person who seeks certification or to
31 maintain certification.

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

4 Section 16. Paragraph (a) of subsection (4) of section
5 570.9135, Florida Statutes, is amended to read:

6 570.9135 Beef Market Development Act; definitions;
7 Florida Beef Council, Inc., creation, purposes, governing
8 board, powers, and duties; referendum on assessments imposed
9 on gross receipts from cattle sales; payments to organizations
10 for services; collecting and refunding assessments; vote on
11 continuing the act; council bylaws.--

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

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

17 Section 17. Subsections (2) and (5) of section
18 570.952, F.S., are amended to read:

19 570.952 Florida Agriculture Center and Horse Park
20 Authority.--

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

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

24 ~~1. Three citizens at large, who shall represent the~~
25 ~~views of the general public toward agriculture and equine~~
26 ~~activities in the state.~~

27 ~~2. One representative from the Department of~~
28 ~~Agriculture and Consumer Services.~~

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

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

1 ~~5. One member of the Ocala/Marion County Chamber of~~
2 ~~Commerce.~~

3 ~~6. Two representatives of the tourism or hospitality~~
4 ~~industry.~~

5 ~~7. Three representatives of the commercial agriculture~~
6 ~~industry.~~

7 ~~8. Three representatives from recognized horse breed~~
8 ~~associations.~~

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

10 ~~10. Three representatives from the competitive equine~~
11 ~~industry.~~

12 ~~11. One representative from the horse pleasure and~~
13 ~~trail riding industry.~~

14 ~~12. One representative recommended by the Board of~~
15 ~~County Commissioners of Marion County.~~

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

21 ~~(b)(c)~~ Any member of the authority who fails to attend
22 three consecutive authority meetings without good cause shall
23 be deemed to have resigned from the authority. ~~The~~
24 ~~commissioner shall appoint a person representing the same~~
25 ~~interest or trade as the resigning member. Current members~~
26 ~~shall continue to serve until successors are appointed.~~

27 ~~(c)~~ Terms for members who are appointed before July 1,
28 2005, shall expire on July 1, 2005.

29 ~~(5)~~ ~~The commissioner shall submit information annually~~
30 ~~to the Speaker of the House of Representatives and the~~
31 ~~President of the Senate reporting the activities of the~~

1 ~~Florida Agriculture Center and Horse Park Authority and the~~
2 ~~progress of the Florida Agriculture Center and Horse Park,~~
3 ~~including, but not limited to, pertinent planning, budgeting,~~
4 ~~and operational information concerning the authority.~~

5 Section 18. Section 581.011, Florida Statutes, is
6 amended to read:

7 581.011 Definitions.--As used in this chapter:

8 (1) "Agent" means any person selling or distributing
9 nursery stock under the partial or full control of a
10 nurseryman.

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

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

19 (4) "Authorized representative" means any designated
20 employee, inspector, or collaborator of the division or the
21 United States Department of Agriculture.

22 (5) "Certificate of inspection" means an official
23 document stipulating compliance with the requirements of this
24 chapter. The term "certificate" includes label, rubber stamp
25 imprint, tag, permit, written statement, or any form of
26 inspection and certification document which accompanies the
27 movement of inspected and certified plant material and plant
28 products.

29 (6) "Certificate of registration" means an official
30 document issued by the division to nurseries, stock dealers,
31 agents, and plant brokers as evidence of being properly

1 registered with the division in compliance with the
2 requirements of this chapter and of any of the rules
3 promulgated hereunder.

4 (7) "Citrus" means all plants, plant parts, and plant
5 products, including seed and fruit, of all genera, species,
6 and varieties of the Rutaceous subfamilies Aurantioideae,
7 Rutoideae, and Toddalioidae, unless specifically excluded by
8 the rules of the department.

9 (8) "Collaborator" means a person cooperating with the
10 division in some capacity, who has been officially designated
11 to perform certain duties for the division.

12 (9) "Compliance agreement" means a written agreement
13 between the department and any person engaged in growing,
14 handling, or moving articles, plants, or plant products
15 regulated under this chapter, wherein the person agrees to
16 comply with stipulated requirements.

17 (10) "Department" means the Department of Agriculture
18 and Consumer Services of the state or its authorized
19 representative.

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

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

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

28 (14) "Genetically engineered organism" means an
29 organism altered or produced through genetic modification from
30 a donor, vector, or recipient organism using recombinant DNA
31 techniques.

1 (15) "Invasive plant" means an exotic plant that
2 disrupts or may disrupt naturally occurring native plant
3 communities.

4 ~~(16)~~~~(15)~~ "Move" means to ship, offer for shipment,
5 receive for transportation, carry, or otherwise transport.

6 ~~(17)~~~~(16)~~ "Museum" means the Florida State Collection
7 of Arthropods.

8 ~~(18)~~~~(17)~~ "Noxious aquatic plant" means any part,
9 including, but not limited to, seeds or reproductive parts, of
10 an aquatic plant that has the potential to hinder the growth
11 of beneficial plants, interfere with irrigation or navigation,
12 or adversely affect the public welfare or the natural
13 resources of this state.

14 ~~(19)~~~~(18)~~ "Noxious weed" means any living stage,
15 including, but not limited to, seeds and productive parts, of
16 a parasitic or other plant of a kind, or subdivision of a
17 kind, which may be a serious agricultural threat in Florida or
18 have a negative impact on the plant species protected under s.
19 581.185.

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

24 ~~(21)~~~~(20)~~ "Nurseryman" means any person engaged in the
25 production of nursery stock for sale or distribution.

26 ~~(22)~~~~(21)~~ "Nursery stock" means all plants, trees,
27 shrubs, vines, bulbs, cuttings, grafts, scions, or buds grown
28 or kept for or capable of propagation or distribution, unless
29 specifically excluded by the rules of the department.

30 ~~(23)~~~~(22)~~ "Official organ" means a printed document
31 published by the division for notification to the public and

1 industries in matters relating to division activities and in
2 which official announcements may be made.

3 ~~(24)~~~~(23)~~ "Places" means vessels, railroad cars,
4 automobiles, aircraft, and other vehicles; buildings; docks;
5 nurseries; orchards; and other premises where plants or plant
6 products are grown, kept, or handled.

7 ~~(25)~~~~(24)~~ "Plant broker" means a person who transacts
8 the transfer of plants from a seller to a buyer and who may or
9 may not be in actual physical possession of the plants.

10 ~~(26)~~~~(25)~~ "Plant pest" means any living stage of any
11 insects, mites, nematodes, slugs, snails, protozoa, or other
12 invertebrate animals, bacteria, fungi, other parasitic plants
13 or their reproductive parts, or viruses, or any organisms
14 similar to or allied with any of the foregoing, including any
15 genetically engineered organisms, or any infectious substances
16 which can directly or indirectly injure or cause disease or
17 damage in any plants or plant parts or any processed,
18 manufactured, or other plant products.

19 ~~(27)~~~~(26)~~ "Plants and plant products" means trees,
20 shrubs, vines, forage and cereal plants, and all other plants
21 and plant parts, including cuttings, grafts, scions, buds,
22 fruit, vegetables, roots, bulbs, seeds, wood, lumber, and all
23 products made from them, unless specifically excluded by the
24 rules of the department.

25 ~~(28)~~~~(27)~~ "Quarantine" means an official order issued
26 by the department that regulates the movement of articles,
27 plants, or plant products to prevent the spread of disease or
28 pests.

29 ~~(29)~~~~(28)~~ "Stock dealer" means any person not a grower
30 of nursery stock in this state who buys or otherwise acquires
31 nursery stock for the purpose of reselling independently of

1 any control of a nurseryman, agent, or plant broker, and who
2 at any time maintains physical possession of such nursery
3 stock.

4 ~~(30)(29)~~ "Technical council" means the Plant Industry
5 Technical Council.

6 Section 19. Section 581.083, Florida Statutes, is
7 amended to read:

8 581.083 Introduction or release of plant pests,
9 noxious weeds, or organisms affecting plant life; cultivation
10 of nonnative plants; special permit and security required.--

11 (1) The introduction into or release within this state
12 of any plant pest, noxious weed, genetically engineered plant
13 or plant pest, or any other organism which may directly or
14 indirectly affect the plant life of this state as an injurious
15 pest, parasite, or predator of other organisms, or any
16 arthropod, is prohibited, except under special permit issued
17 by the department through the division, which shall be the
18 sole issuing agency for such special permits.

19 (2) Each application for a special permit shall be
20 accompanied by a fee in an amount determined by the
21 department, through its rulemaking authority, not to exceed
22 \$50. The department may waive this fee by rule for
23 governmental agencies.

24 (3) Except for research projects approved by the
25 department, no permit for any organism shall be issued unless
26 the department has determined that the parasite, predator, or
27 biological control agent is specific to a target organism or
28 plant and not likely to become a pest of plants or other
29 beneficial organisms. The department may rely on findings of
30 the Department of Environmental Protection, the United States
31

1 Department of Agriculture, and other agencies in making any
2 determination about organisms used for biological control.

3 (4) A person may not cultivate a nonnative plant,
4 including a genetically engineered plant or a plant that has
5 been introduced, for purposes of fuel production or purposes
6 other than agriculture in plantings greater in size than 2
7 contiguous acres, except under a special permit issued by the
8 department through the division, which is the sole agency
9 responsible for issuing such special permits. Such a permit is
10 not required if the department, in conjunction with the
11 Institute of Food and Agricultural Sciences at the University
12 of Florida, determines that the plant is not invasive and
13 subsequently exempts the plant by rule.

14 (a)1. Each application for a special permit must be
15 accompanied by a fee as described in subsection (2) and proof
16 that the applicant has obtained a bond in the form approved by
17 the department and issued by a surety company admitted to do
18 business in this state or by a certificate of deposit. The
19 application must also include, on a form provided by the
20 department, the name of the applicant and the applicant's
21 address or the address of the applicant's principal place of
22 business, a statement completely identifying the nonnative
23 plant to be cultivated, and a statement of the estimated cost
24 of removing and destroying the plant that is the subject of
25 the special permit and the basis for calculating or
26 determining that estimate. If the applicant is a corporation,
27 partnership, or other business entity, the applicant must also
28 provide in the application the name and address of each
29 officer, partner, or managing agent. The applicant shall
30 notify the department within 10 business days of any change of
31 address or change in the principal place of business. The

1 department shall mail all notices to the applicant's last
2 known address.

3 2. As used in this subsection, the term "certificate
4 of deposit" means a certificate of deposit at any recognized
5 financial institution doing business in the United States. The
6 department may not accept a certificate of deposit in
7 connection with the issuance of a special permit unless the
8 issuing institution is properly insured by the Federal Deposit
9 Insurance Corporation or the Federal Savings and Loan
10 Insurance Corporation.

11 (b) Upon obtaining a permit, the permitholder may
12 annually cultivate and maintain the nonnative plants as
13 authorized by the special permit. If the permitholder ceases
14 to maintain or cultivate the plants authorized by the special
15 permit, if the permit expires, or if the permitholder ceases
16 to abide by the conditions of the special permit, the
17 permitholder shall immediately remove and destroy the plants
18 that are subject to the permit, if any remain. The
19 permitholder shall notify the department of the removal and
20 destruction of the plants within 10 days after such event.

21 (c) If the department:

22 1. Determines that the permitholder is no longer
23 maintaining or cultivating the plants subject to the special
24 permit and has not removed and destroyed the plants authorized
25 by the special permit;

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

29 3. Determines that the permitholder has exceeded the
30 conditions of the authorized special permit; or

31

1 4. Receives a notice of cancellation of the surety
2 bond,
3
4 the department may issue an immediate final order, which shall
5 be immediately appealable or enjoicable as provided by chapter
6 120, directing the permitholder to immediately remove and
7 destroy the plants authorized to be cultivated under the
8 special permit. A copy of the immediate final order shall be
9 mailed to the permitholder and to the surety company or
10 financial institution that has provided security for the
11 special permit, if applicable.

12 (d) If, upon issuance by the department of an
13 immediate final order to the permitholder, the permitholder
14 fails to remove and destroy the plants subject to the special
15 permit within 60 days after issuance of the order, or such
16 shorter period as is designated in the order as the public
17 health, safety, and welfare requires, the department may enter
18 the cultivated acreage and remove and destroy the plants that
19 are the subject of the special permit. If the permitholder
20 makes a written request to the department for an extension of
21 time to remove and destroy the plants which demonstrates
22 specific facts showing why the plants could not reasonably be
23 removed and destroyed in the applicable timeframe, the
24 department may extend the time for removing and destroying the
25 plants subject to the special permit. The reasonable costs and
26 expenses incurred by the department for removing and
27 destroying the plants subject to the special permit shall be
28 reimbursed to the department by the permitholder within 21
29 days after the date the permitholder and the surety company or
30 financial institution are served a copy of the department's
31 invoice for the costs and expenses incurred by the department

1 to remove and destroy the cultivated plants, along with a
2 notice of administrative rights, unless the permit holder or
3 the surety company or financial institution object to the
4 reasonableness of the invoice. In the event of an objection,
5 the permit holder or surety company or financial institution is
6 entitled to an administrative proceeding as provided by
7 chapter 120. Upon entry of a final order determining the
8 reasonableness of the incurred costs and expenses, the
9 permit holder shall have 15 days following service of the final
10 order to reimburse the department. Failure of the permit holder
11 to timely reimburse the department for the incurred costs and
12 expenses entitles the department to reimbursement from the
13 applicable bond or certificate of deposit.

14 (e) Each permit holder shall maintain for each separate
15 growing location a bond or a certificate of deposit in an
16 amount determined by the department, but not less than 150
17 percent of the estimated cost of removing and destroying the
18 cultivated plants. The bond or certificate of deposit may not
19 exceed \$5,000 per acre, unless a higher amount is determined
20 by the department to be necessary to protect the public
21 health, safety, and welfare, or unless an exemption is granted
22 by the department based on conditions specified in the
23 application which would preclude the department from incurring
24 the cost of removing and destroying the cultivated plants and
25 would prevent injury to the public health, safety, and
26 welfare. The aggregate liability of the surety company or
27 financial institution to all persons for all breaches of the
28 conditions of the bond or certificate of deposit may not
29 exceed the amount of the bond or certificate of deposit. The
30 original bond or certificate of deposit required by this
31 subsection shall be filed with the department. A surety

1 company shall give the department 30 days' written notice of
2 cancellation by certified mail in order to cancel a bond.
3 Cancellation of a bond does not relieve a surety company or
4 financial institution of liability for paying to the
5 department all costs and expenses incurred or to be incurred
6 for removing and destroying the permitted plants covered by an
7 immediate final order authorized under paragraph (c). The bond
8 or certificate of deposit must be provided or assigned in the
9 exact name in which the applicant applies for the special
10 permit. The penal sum of the surety bond or certificate of
11 deposit to be furnished to the department by a permitholder in
12 the amount specified in this paragraph must guarantee payment
13 of the costs and expenses incurred or to be incurred by the
14 department for removing and destroying the plants cultivated
15 under the issued special permit. The bond or certificate of
16 deposit assignment or agreement must be upon a form prescribed
17 or approved by the department and must be conditioned to
18 secure the faithful accounting for and payment of all costs
19 and expenses incurred by the department for removing and
20 destroying all plants cultivated under the special permit. The
21 bond or certificate of deposit assignment or agreement must
22 include terms binding the instrument to the Commissioner of
23 Agriculture. Such a certificate of deposit shall be presented
24 with an assignment of the permitholder's rights in the
25 certificate in favor of the Commissioner of Agriculture on a
26 form prescribed by the department and a letter from the
27 issuing institution acknowledging that the assignment has been
28 properly recorded on the books of the issuing institution and
29 will be honored by the issuing institution. Such an assignment
30 is irrevocable while the special permit is in effect and for
31 an additional period of 6 months after termination of the

1 special permit if operations to remove and destroy the
2 permitted plants are not continuing and if the department's
3 invoice remains unpaid by the permitholder under the issued
4 immediate final order. If operations to remove and destroy the
5 plants are pending, the assignment remains in effect until all
6 plants are removed and destroyed and the department's invoice
7 has been paid. The bond or certificate of deposit may be
8 released by the assignee of the surety company or financial
9 institution to the permitholder, or to the permitholder's
10 successors, assignee, or heirs, if operations to remove and
11 destroy the permitted plants are not pending and no invoice
12 remains unpaid at the conclusion of 6 months after the last
13 effective date of the special permit. The department may not
14 accept a certificate of deposit that contains any provision
15 that would give to any person any prior rights or claim on the
16 proceeds or principal of such a certificate of deposit. The
17 department shall determine by rule whether an annual bond or
18 certificate of deposit will be required. The amount of such a
19 bond or certificate of deposit shall be increased, upon order
20 of the department, at any time if the department finds such an
21 increase to be warranted by the cultivating operations of the
22 permitholder. In the same manner, the amount of such a bond or
23 certificate of deposit may be decreased when a decrease in the
24 cultivating operations warrants such a decrease. This
25 paragraph applies to any bond or certificate of deposit,
26 regardless of the anniversary date of its issuance,
27 expiration, or renewal.

28 (f) In order to carry out the purposes of this
29 subsection, the department or its agents may require from any
30 permitholder verified statements of the cultivated acreage
31 subject to the special permit and may review the

1 permitholder's business or cultivation records at her or his
2 place of business during normal business hours in order to
3 determine the acreage cultivated. The failure of a
4 permitholder to furnish such a statement, to make such records
5 available, or to make and deliver a new or additional bond or
6 certificate of deposit is cause for suspension of the special
7 permit. If the department finds such failure to be willful,
8 the special permit may be revoked.

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

11 585.002 Department control; continuance of powers,
12 duties, rules, orders, etc.--

13 (3) The department, to the exclusion of all other
14 state agencies, shall have regulatory authority over the
15 possession, control, care, and maintenance of ostriches, emus,
16 ~~and~~ rheas, and bison domesticated and confined for commercial
17 farming purposes, except those kept and maintained on hunting
18 preserves or game farms or primarily for exhibition purposes
19 in zoos, carnivals, circuses, and other such establishments
20 where such species are kept primarily for display to the
21 public.

22 Section 21. Paragraph (c) of subsection (3) of section
23 590.125, Florida Statutes, is amended to read:

24 590.125 Open burning authorized by the division.--

25 (3) CERTIFIED PRESCRIBED BURNING; LEGISLATIVE FINDINGS
26 AND PURPOSE.--

27 (c) Neither a property owner nor ~~or~~ his or her agent
28 is ~~neither~~ liable pursuant to s. 590.13 for damage or injury
29 caused by the fire or resulting smoke or ~~not~~ considered to be
30 in violation of subsection (2) for burns conducted in
31

1 accordance with this subsection unless gross negligence is
2 proven.

3 Section 22. If any provision of this act or the
4 application thereof to any person or circumstance is held
5 invalid, the invalidity does not affect other provisions or
6 applications of the act which can be given effect without the
7 invalid provision or application, and to this end the
8 provisions of this act are severable.

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

10

11 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
12 COMMITTEE SUBSTITUTE FOR
13 CS for CS for Senate Bill 858

13

14 CS/CS/CS SB 858 is different from CS/CS SB 858 in that it:

15

16 1. Clarifies that property leased or subleased by the
17 Department of Agriculture and Consumer Services
(department), which is used for citrus inspections, shall
have salvage value for ad valorem tax purposes;

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19 2. Amends the membership of the Florida Agriculture Center
and Horse Park Authority;

20

21 3. Standardizes procedures statewide regarding the
inspection of consumer products and exempts the
22 department from any on-line procurement program;

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24 4. Requires the department to investigate complaints
relating to the Florida Agricultural Worker Safety Act;
and

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26 5. Deletes a section that characterizes certain agricultural
equipment as obsolete for purposes of assessment for ad
valorem property taxes.
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