

1 providing for coordination between the
2 department and the Department of Environmental
3 Protection; amending s. 582.06, F.S.; revising
4 the membership of the Soil and Water
5 Conservation Council; amending s. 828.30, F.S.;
6 updating references to the Rabies Vaccination
7 Certificate; amending s. 403.067, F.S.;
8 clarifying rules adopted by the department
9 relating to best-management practices;
10 clarifying the authority for certain measures
11 to be implemented by the Department of
12 Environmental Protection for certain water
13 bodies; repealing s. 482.211(11), F.S.,
14 relating to an exemption from ch. 482, F.S.,
15 provided for a yard worker when applying a
16 pesticide to the lawn or ornamental plants of
17 an individual residential property owner under
18 certain circumstances; designating the "Austin
19 Dewey Gay Agricultural Inspection Station" in
20 Escambia County; amending s. 500.12, F.S.;
21 exempting certain producers of sugar cane or
22 sorghum syrup from permitting requirements;
23 amending s. 570.249, F.S.; expanding the
24 conditions under which loan funds to certain
25 agricultural producers may be granted;
26 increasing the maximum amount of a loan;
27 providing definitions; providing an effective
28 date.

29
30 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Subsections (7) and (12) of section
2 482.021, Florida Statutes, are amended to read:

3 482.021 Definitions.--For the purposes of this
4 chapter, and unless otherwise required by the context, the
5 term:

6 (7) "Employee" means a person who is employed by a
7 licensee that provides that person with necessary training,
8 supervision, pesticides, equipment, and insurance and who
9 receives compensation from and is under the personal
10 supervision and direct control of the licensee's certified
11 operator in charge and licensee from whose ~~which~~ compensation
12 ~~of~~ the licensee regularly deducts and matches federal
13 insurance contributions and federal income and Social Security
14 taxes.

15 (12) "Independent contractor" means an entity separate
16 from the licensee that:

17 (a) Receives moneys from a customer which are
18 deposited in a bank account other than that of the licensee;

19 (b) Owns or supplies its own service vehicle,
20 equipment, and pesticides; ~~or~~

21 (c) Maintains a business operation, office, or support
22 staff independent of the licensee's direct control;

23 (d) Pays its own operating expenses such as fuel,
24 equipment, pesticides, and materials; or

25 (e)~~(e)~~ Pays its own workers' ~~worker's~~ compensation as
26 an independent contractor.

27 Section 2. Subsection (5) of section 482.051, Florida
28 Statutes, is amended to read:

29 482.051 Rules.--The department has authority to adopt
30 rules pursuant to ss. 120.536(1) and 120.54 to implement the
31 provisions of this chapter. Prior to proposing the adoption of

1 a rule, the department shall counsel with members of the pest
2 control industry concerning the proposed rule. The department
3 shall adopt rules for the protection of the health, safety,
4 and welfare of pest control employees and the general public
5 which require:

6 (5) That any pesticide used as the primary preventive
7 treatment for ~~preconstruction treatments for the prevention of~~
8 subterranean termites in new construction be applied in the
9 amount, concentration, and treatment area in accordance with
10 the label; that a copy of the label of the registered
11 pesticide being applied be carried in a vehicle at the site
12 where the pesticide is being applied; and that the licensee
13 maintain for 3 years the record of each preconstruction
14 treatment, indicating the date of treatment, the location or
15 address of the property treated, the total square footage of
16 the structure treated, the type of pesticide applied, the
17 concentration of each substance in the mixture applied, and
18 the total amount of pesticide applied.

19 Section 3. Paragraph (a) of subsection (2) of section
20 482.091, Florida Statutes, is amended to read:

21 482.091 Employee identification cards.--

22 (2)(a) An identification cardholder must be an
23 employee of the licensee and work under the direction and
24 supervision of the licensee's certified operator in charge and
25 shall ~~may~~ not be an independent contractor. An identification
26 cardholder shall operate ~~may perform~~ only ~~pest control~~
27 ~~services~~ out of, and ~~or~~ for customers assigned ~~arising~~ from,
28 the licensee's licensed business location. An identification
29 cardholder shall ~~may~~ not perform any pest control
30 independently of and without the knowledge of the licensee and
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1 the licensee's certified operator in charge and shall ~~may~~
2 perform pest control only for the licensee's customers.

3 Section 4. Subsections (1), (2), and (3) of section
4 482.156, Florida Statutes, are amended to read:

5 482.156 Limited certification for commercial landscape
6 maintenance personnel.--

7 (1) The department shall establish a limited
8 certification category for individual commercial landscape
9 maintenance personnel to authorize them to apply herbicides
10 for controlling weeds in plant beds and to perform integrated
11 pest management on ornamental plants using ~~the following~~
12 ~~materials~~ insecticides and fungicides having the signal word
13 "caution" but not having the word "warning" or "danger" on the
14 label, ~~insecticidal soaps, horticultural oils, and bacillus~~
15 ~~thuringiensis formulations~~. The application equipment that may
16 be used by a person certified pursuant to this section is
17 limited to portable, handheld 3-gallon compressed air sprayers
18 or backpack sprayers having no more than a 5-gallon capacity
19 and does not include power equipment.

20 (2)(a) A person seeking limited certification under
21 this section must pass an examination given by the department.
22 Each application for examination must be accompanied by an
23 examination fee set by rule of the department, in an amount of
24 not more than \$150 or less than \$50; ~~however, until a rule~~
25 ~~setting this fee is adopted by the department, the examination~~
26 ~~fee is \$50. Prior to the department's issuing a limited~~
27 ~~certification under this section, each person applying making~~
28 ~~application for the certification under this section~~ must
29 furnish proof of having a certificate of insurance which
30 states that the employer meets the requirements for minimum
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1 financial responsibility for bodily injury and property damage
2 required by s. 482.071(4).

3 (b) To be eligible to take the examination, an
4 applicant must have completed 6 & classroom hours of plant bed
5 and ornamental continuing education training approved by the
6 department and provide sufficient proof, according to criteria
7 established by department rule, ~~that the applicant has been in~~
8 ~~the landscape maintenance business for at least 3 years.~~

9 ~~(b)~~ The department shall provide the appropriate
10 reference materials for the examination and make the
11 examination readily accessible and available to applicants at
12 least quarterly or as necessary in each county.

13 (3) An application for recertification under this
14 section must be made annually and be accompanied by a
15 recertification fee set by rule of the department, in an
16 amount of not more than \$75 or less than \$25; ~~however, until a~~
17 ~~rule setting this fee is adopted by the department, the fee~~
18 ~~for recertification is \$25.~~ The application must also be
19 accompanied by proof of having completed 4 classroom hours of
20 acceptable continuing education and the same proof of having a
21 certificate of insurance as is required for issuance of this
22 ~~initial~~ certification. After a grace period not exceeding 30
23 calendar days following the annual date that recertification
24 is due, a late renewal charge of \$50 shall be assessed and
25 must be paid in addition to the renewal fee. Unless timely
26 recertified, a certificate automatically expires 180 calendar
27 days after the anniversary recertification date. Subsequent to
28 such expiration, a certificate may be issued only upon
29 successful reexamination and upon payment of the examination
30 fees due.

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1 Section 5. Subsection (7) of section 482.211, Florida
2 Statutes, is amended to read:

3 482.211 Exemptions.--This chapter does not apply to:

4 (7) ~~Area~~ Mosquito control activities conducted by a
5 local government or district established under chapter 388 or
6 by special act or by a contractor of the local government or
7 district.

8 Section 6. Section 500.033, Florida Statutes, is
9 amended to read:

10 500.033 Florida Food Safety and Food ~~Defense Security~~
11 Advisory Council.--

12 (1) There is created the Florida Food Safety and Food
13 ~~Defense Security~~ Advisory Council for the purpose of serving
14 as a forum for presenting, investigating, and evaluating
15 issues of current importance to the assurance of a safe and
16 secure food supply to the citizens of Florida. The Florida
17 Food Safety and Food ~~Defense Security~~ Advisory Council shall
18 consist of, but not be limited to: the Commissioner of
19 Agriculture or his or her designee; the Secretary of Health or
20 his or her designee; the Secretary of Business and
21 Professional Regulation or his or her designee; the person
22 responsible for domestic security with the ~~Florida~~ Department
23 of Law Enforcement; members representing the production,
24 processing, distribution, and sale of foods; consumers or
25 ~~and/or~~ members of citizens groups; representatives of ~~or~~ food
26 industry groups; scientists or other experts in aspects of
27 food safety from state universities; representatives from
28 local, state, and federal agencies that are charged with
29 responsibilities for food safety or food ~~defense security~~; the
30 chairs of the Agriculture Committees of the Senate and the
31 House of Representatives or their designees; and the chairs of

1 | the committees of the Senate and the House of Representatives
2 | with jurisdictional oversight of home defense issues or their
3 | designees. The Commissioner of Agriculture shall appoint the
4 | remaining members. The council shall make periodic reports to
5 | the Department of Agriculture and Consumer Services concerning
6 | findings and recommendations in the area of food safety and
7 | food ~~defense security~~.

8 | (2) The council shall consider the development of
9 | appropriate advice or recommendations on food safety or food
10 | ~~defense security~~ issues. In the discharge of their duties, the
11 | council members may receive for review confidential data
12 | exempt from the provisions of s. 119.07(1); however, it is
13 | unlawful for any member of the council to use the data for his
14 | or her advantage or reveal the data to the general public.

15 | Section 7. Section 570.954, Florida Statutes, is
16 | created to read:

17 | 570.954 Farm-to-fuel initiative.--

18 | (1) The department may develop a farm-to-fuel
19 | initiative to enhance the market for and promote the
20 | production and distribution of renewable energy from
21 | Florida-grown crops, agricultural wastes and residues, and
22 | other biomass and to enhance the value of agricultural
23 | products or expand agribusiness in the state.

24 | (2) The department may conduct a statewide
25 | comprehensive information and education program aimed at
26 | educating the general public about the benefits of renewable
27 | energy and the use of alternative fuels.

28 | (3) The department shall coordinate with and solicit
29 | the expertise of the state energy office within the Department
30 | of Environmental Protection when developing and implementing
31 | this initiative.

1 Section 8. Paragraphs (b) and (c) of subsection (1) of
2 section 582.06, Florida Statutes, are amended to read:

3 582.06 Soil and Water Conservation Council; powers and
4 duties.--

5 (1) COMPOSITION.--The Soil and Water Conservation
6 Council is created in the Department of Agriculture and
7 Consumer Services and shall be composed of 23 members as
8 follows:

9 (b) Twelve ~~nonvoting ex officio~~ members shall include
10 one representative each from the Department of Environmental
11 Protection, the five water management districts, the Institute
12 of Food and Agricultural Sciences at the University of
13 Florida, the United States Department of Agriculture Natural
14 Resources Conservation Service, the Florida Association of
15 Counties, and the Florida League of Cities, and two
16 representatives of environmental interests.

17 (c) All members shall be appointed by the
18 commissioner. ~~Ex officio~~ Members appointed pursuant to
19 paragraph (b) shall be appointed by the commissioner from
20 recommendations provided by the organization or interest
21 represented.

22 Section 9. Subsection (3) of section 828.30, Florida
23 Statutes, is amended to read:

24 828.30 Rabies vaccination of dogs, cats, and
25 ferrets.--

26 (3) Upon vaccination against rabies, the licensed
27 veterinarian shall provide the animal's owner and the animal
28 control authority with a rabies vaccination certificate. Each
29 animal control authority and veterinarian shall use the Form
30 ~~517~~ "Rabies Vaccination Certificate" of the National
31 Association of State Public Health Veterinarians (NASPHV) or

1 an equivalent form approved by the local government that
2 contains all the information required by the NASPHV Rabies
3 Vaccination Certificate ~~Form 51~~. The veterinarian who
4 administers the rabies vaccine to an animal as required under
5 this section may affix his or her signature stamp in lieu of
6 an actual signature.

7 Section 10. Paragraph (c) of subsection (7) and
8 subsection (11) of section 403.067, Florida Statutes, are
9 amended to read:

10 403.067 Establishment and implementation of total
11 maximum daily loads.--

12 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
13 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.--

14 (c) Best management practices.--

15 1. The department, in cooperation with the water
16 management districts and other interested parties, as
17 appropriate, may develop suitable interim measures, best
18 management practices, or other measures necessary to achieve
19 the level of pollution reduction established by the department
20 for nonagricultural nonpoint pollutant sources in allocations
21 developed pursuant to subsection (6) and this subsection.

22 These practices and measures may be adopted by rule by the
23 department and the water management districts pursuant to ss.
24 120.536(1) and 120.54, and, where adopted by rule, shall be
25 implemented by those parties responsible for nonagricultural
26 nonpoint source pollution.

27 2. The Department of Agriculture and Consumer Services
28 may develop and adopt by rule pursuant to ss. 120.536(1) and
29 120.54 suitable interim measures, best management practices,
30 or other measures necessary to achieve the level of pollution
31 reduction established by the department for agricultural

1 pollutant sources in allocations developed pursuant to
2 subsection (6) and this subsection or for programs implemented
3 pursuant to paragraph (11)(b). These practices and measures
4 may be implemented by those parties responsible for
5 agricultural pollutant sources and the department, the water
6 management districts, and the Department of Agriculture and
7 Consumer Services shall assist with implementation. In the
8 process of developing and adopting rules for interim measures,
9 best management practices, or other measures, the Department
10 of Agriculture and Consumer Services shall consult with the
11 department, the Department of Health, the water management
12 districts, representatives from affected farming groups, and
13 environmental group representatives. Such rules shall also
14 incorporate provisions for a notice of intent to implement the
15 practices and a system to assure the implementation of the
16 practices, including recordkeeping requirements.

17 3. Where interim measures, best management practices,
18 or other measures are adopted by rule, the effectiveness of
19 such practices in achieving the levels of pollution reduction
20 established in allocations developed by the department
21 pursuant to subsection (6) and this subsection or in programs
22 implemented pursuant to paragraph (11)(b) shall be verified at
23 representative sites by the department. The department shall
24 use best professional judgment in making the initial
25 verification that the best management practices are reasonably
26 expected to be effective and, where applicable, shall notify
27 the appropriate water management district or ~~and~~ the
28 Department of Agriculture and Consumer Services of its initial
29 verification prior to the adoption of a rule proposed pursuant
30 to this paragraph. Implementation, in accordance with rules
31 adopted under this paragraph, of practices that have been

1 initially verified to be effective, or verified to be
2 effective by monitoring at representative sites, by the
3 department, shall provide a presumption of compliance with
4 state water quality standards and release from the provisions
5 of s. 376.307(5) for those pollutants addressed by the
6 practices, and the department is not authorized to institute
7 proceedings against the owner of the source of pollution to
8 recover costs or damages associated with the contamination of
9 surface water or groundwater caused by those pollutants.
10 Research funded by the department, a water management
11 district, or the Department of Agriculture and Consumer
12 Services to develop or demonstrate interim measures or
13 best-management practices is granted a presumption of
14 compliance with state water quality standards and release from
15 s. 376.307(5) which is limited to the research site for those
16 pollutants addressed by the practices.

17 4. Where water quality problems are demonstrated,
18 despite the appropriate implementation, operation, and
19 maintenance of best management practices and other measures
20 according to rules adopted under this paragraph, the
21 department, a water management district, or the Department of
22 Agriculture and Consumer Services, in consultation with the
23 department, shall institute a reevaluation of the best
24 management practice or other measure. Should the reevaluation
25 determine that the best management practice or other measure
26 requires modification, the department, a water management
27 district, or the Department of Agriculture and Consumer
28 Services, as appropriate, shall revise the rule to require
29 implementation of the modified practice within a reasonable
30 time period as specified in the rule.

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1 5. Individual agricultural records relating to
2 processes or methods of production, or relating to costs of
3 production, profits, or other financial information which are
4 otherwise not public records, which are reported to the
5 Department of Agriculture and Consumer Services pursuant to
6 subparagraphs 3. and 4. or pursuant to any rule adopted
7 pursuant to subparagraph 2. shall be confidential and exempt
8 from s. 119.07(1) and s. 24(a), Art. I of the State
9 Constitution. Upon request of the department or any water
10 management district, the Department of Agriculture and
11 Consumer Services shall make such individual agricultural
12 records available to that agency, provided that the
13 confidentiality specified by this subparagraph for such
14 records is maintained. This subparagraph is subject to the
15 Open Government Sunset Review Act of 1995 in accordance with
16 s. 119.15, and shall stand repealed on October 2, 2006, unless
17 reviewed and saved from repeal through reenactment by the
18 Legislature.

19 6. The provisions of subparagraphs 1. and 2. shall not
20 preclude the department or water management district from
21 requiring compliance with water quality standards or with
22 current best management practice requirements set forth in any
23 applicable regulatory program authorized by law for the
24 purpose of protecting water quality. Additionally,
25 subparagraphs 1. and 2. are applicable only to the extent that
26 they do not conflict with any rules adopted by the department
27 that are necessary to maintain a federally delegated or
28 approved program.

29 (11) IMPLEMENTATION OF ADDITIONAL PROGRAMS.--

30 (a) The department shall not implement, without prior
31 legislative approval, any additional regulatory authority

1 pursuant to s. 303(d) of the Clean Water Act or 40 C.F.R. part
2 130, if such implementation would result in water quality
3 discharge regulation of activities not currently subject to
4 regulation.

5 (b) Interim measures, best management practices, or
6 other measures may be developed and voluntarily implemented
7 pursuant to ~~paragraph subparagraphs~~ (7)(c)1. ~~and 2.~~ for any
8 water body or segment for which a total maximum daily load or
9 allocation has not been established. The implementation of
10 such pollution control programs may be considered by the
11 department in the determination made pursuant to subsection
12 (4).

13 Section 11. Subsection (11) of section 482.211,
14 Florida Statutes, is repealed.

15 Section 12. Austin Dewey Gay Agricultural Inspection
16 Station designated; department to erect suitable markers.--

17 (1) The agricultural inspection station located at or
18 near mile marker 1 on Interstate Highway 10 in Escambia County
19 is designated as "Austin Dewey Gay Memorial Agricultural
20 Inspection Station."

21 (2) The Department of Agriculture and Consumer
22 Services is directed to erect suitable markers designating the
23 Austin Dewey Gay Memorial Agricultural Inspection Station as
24 described in subsection (1).

25 Section 13. Paragraph (a) of subsection (1) of section
26 500.12, Florida Statutes, is amended to read:

27 500.12 Food permits; building permits.--

28 (1)(a) A food permit from the department is required
29 of any person who operates a food establishment or retail food
30 store, except:

1 1. Persons operating minor food outlets, including,
2 but not limited to, video stores, that sell commercially
3 prepackaged, nonpotentially hazardous candy, chewing gum,
4 soda, or popcorn, provided the shelf space for those items
5 does not exceed 12 linear feet and no other food is sold by
6 the minor food outlet.

7 2. Persons subject to continuous, onsite federal or
8 state inspection.

9 3. Persons selling only legumes in the shell, either
10 parched, roasted, or boiled.

11 4. Persons selling sugar cane or sorghum syrup that
12 has been boiled and bottled on a premise located within the
13 state. Such bottles must contain a label listing the
14 producer's name and street address, all added ingredients, the
15 net weight or volume of product, and a statement that reads
16 "This product has not been produced in a facility permitted by
17 the Florida Department of Agriculture and Consumer Services."

18 Section 14. Subsection (1) of section 570.249, Florida
19 Statutes, is amended to read:

20 570.249 Agricultural Economic Development Program
21 disaster loans and grants and aid.--

22 (1) USE OF LOAN FUNDS.--

23 (a) Loan funds to agricultural producers who have
24 experienced ~~crop~~ losses from a natural disaster or a
25 socioeconomic condition or event may be used to:

26 1. Restore or replace essential physical property or
27 remove debris from essential physical property., such as
28 ~~animals, fences, equipment, structural production facilities,~~
29 ~~and orchard trees;~~

30 2. Pay all or part of production costs associated with
31 the disaster year.†

1 3. Pay essential family living expenses; ~~and~~
2 4. Restructure farm debts.
3 (b) To be eligible, agricultural producers must have a
4 parcel or parcels of land in production not exceeding 300
5 acres.
6 (c) Funds may be issued as direct loans, or as loan
7 guarantees for up to 90 percent of the total loan, in amounts
8 not less than \$30,000 nor more than~~\$300,000~~\$250,000.
9 Applicants must provide at least 10 percent equity.
10 (d) For purposes of this subsection, the term:
11 1. "Losses" means loss or damage to crops,
12 agricultural products, agricultural facilities,
13 infrastructure, or farmworker housing.
14 2. "Essential physical property" means fences,
15 equipment, structural production facilities such as shade
16 houses and greenhouses, other agricultural facilities,
17 infrastructure, or farmworker housing.
18 Section 15. This act shall take effect July 1, 2006.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 CS/CS/SB 1388

4 The committee substitute for committee substitute for
5 committee substitute for SB 1388:

- 6 1) Deletes Section 14 which appropriates \$5,500,000 from the
7 General Revenue Fund to the department to implement the
8 Farms to Fuel Grant Program.
- 9 2) Deletes the tax credit against corporate income taxes for
10 the production of ethanol and biodiesel which are
11 produced at Florida facilities and generated from Florida
12 agriculture products.
- 13 3) Exempts persons selling sugar cane or sorghum syrup that
14 has been bottled on premises located in Florida from
15 obtaining a food permit from the Department of
16 Agriculture and Consumer Services, and requires the label
17 on sugar cane or sorghum syrup to list a street address
18 and net weight or volume of the product to conform to the
19 federal labeling code.
- 20 4) Expands the conditions under which loan funds may be
21 granted from the Agricultural Economic Development
22 Program. It increases the cap on loans from \$250,000 to
23 \$300,000.
- 24 5) Creates the Farm to Fuel Initiative to market and promote
25 the production and distribution of renewable energy from
26 Florida-grown crops, agricultural wastes and residues,
27 and other biomass.

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