

1                   A bill to be entitled  
2           An act relating to the Department of Agriculture and  
3           Consumer Services; amending s. 482.021, F.S.; revising the  
4           definitions of the terms "employee" and "independent  
5           contractor" for purposes of pest control regulation;  
6           amending s. 482.051, F.S.; revising certain requirements  
7           of the department to adopt rules relating to the use of  
8           pesticides for preventing subterranean termites in new  
9           construction; amending s. 482.091, F.S.; clarifying  
10          provisions governing the performance of pest control  
11          services; amending s. 482.156, F.S.; requiring  
12          certification of individual commercial landscape  
13          maintenance personnel; revising the types of materials  
14          such personnel may use; removing obsolete provisions  
15          relating to fees; clarifying requirements relating to  
16          proof of education and insurance; amending s. 482.211,  
17          F.S.; clarifying exemption of certain mosquito control  
18          activities from regulation; amending s. 500.033, F.S.;  
19          renaming the Florida Food Safety and Food Security  
20          Advisory Council as the Florida Food Safety and Food  
21          Defense Advisory Council and revising duties accordingly;  
22          creating s. 570.954, F.S.; providing a short title;  
23          providing legislative findings; providing purposes;  
24          providing definitions; establishing the Farm to Fuel  
25          Grants Program; providing criteria for distribution of  
26          grants; authorizing appointment of an advisory council;  
27          providing purposes; providing membership; authorizing the  
28          department to adopt rules; creating s. 220.192, F.S.;

29 providing certain tax credits for certain producers of  
 30 ethanol and biodiesel; authorizing the Department of  
 31 Revenue to adopt certain rules relating to the tax  
 32 credits; providing for future repeal of the tax credits;  
 33 amending s. 582.06, F.S.; revising the membership of the  
 34 Soil and Water Conservation Council; amending s. 828.30,  
 35 F.S.; updating references to the Rabies Vaccination  
 36 Certificate; providing an effective date.

37

38 Be It Enacted by the Legislature of the State of Florida:

39

40 Section 1. Subsections (7) and (12) of section 482.021,  
 41 Florida Statutes, are amended to read:

42 482.021 Definitions.--For the purposes of this chapter,  
 43 and unless otherwise required by the context, the term:

44 (7) "Employee" means a person who is employed by a  
 45 licensee that provides that person with necessary training,  
 46 supervision, pesticides, equipment, and insurance and who  
 47 receives compensation from and is under the personal supervision  
 48 and direct control of the licensee's certified operator in  
 49 charge and licensee from whose ~~which~~ compensation ~~of~~ the  
 50 licensee regularly deducts and matches federal insurance  
 51 contributions and federal income and Social Security taxes.

52 (12) "Independent contractor" means an entity separate  
 53 from the licensee that:

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

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

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

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

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

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

66 482.051 Rules.--The department has authority to adopt  
67 rules pursuant to ss. 120.536(1) and 120.54 to implement the  
68 provisions of this chapter. Prior to proposing the adoption of a  
69 rule, the department shall counsel with members of the pest  
70 control industry concerning the proposed rule. The department  
71 shall adopt rules for the protection of the health, safety, and  
72 welfare of pest control employees and the general public which  
73 require:

74 (5) That any pesticide used as the primary preventive  
75 treatment for ~~preconstruction treatments for the prevention of~~  
76 ~~subterranean termites~~ in new construction be applied in the  
77 amount, concentration, and treatment area in accordance with the  
78 label; that a copy of the label of the registered pesticide  
79 being applied be carried in a vehicle at the site where the  
80 pesticide is being applied; and that the licensee maintain for 3  
81 years the record of each preconstruction treatment, indicating  
82 the date of treatment, the location or address of the property  
83 treated, the total square footage of the structure treated, the

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84 type of pesticide applied, the concentration of each substance  
 85 in the mixture applied, and the total amount of pesticide  
 86 applied.

87 Section 3. Paragraph (a) of subsection (2) of section  
 88 482.091, Florida Statutes, is amended to read:

89 482.091 Employee identification cards.--

90 (2)(a) An identification cardholder must be an employee of  
 91 the licensee and work under the direction and supervision of the  
 92 licensee's certified operator in charge and shall ~~may~~ not be an  
 93 independent contractor. An identification cardholder shall  
 94 operate ~~may perform~~ only ~~pest control services~~ out of, and ~~or~~  
 95 for customers assigned ~~arising~~ from, the licensee's licensed  
 96 business location. An identification cardholder shall ~~may~~ not  
 97 perform any pest control independently of and without the  
 98 knowledge of the licensee and the licensee's certified operator  
 99 in charge and shall ~~may~~ perform pest control only for the  
 100 licensee's customers.

101 Section 4. Subsections (1), (2), and (3) of section  
 102 482.156, Florida Statutes, are amended to read:

103 482.156 Limited certification for commercial landscape  
 104 maintenance personnel.--

105 (1) The department shall establish a limited certification  
 106 category for individual commercial landscape maintenance  
 107 personnel to authorize them to apply herbicides for controlling  
 108 weeds in plant beds and to perform integrated pest management on  
 109 ornamental plants using ~~the following materials:~~ insecticides  
 110 and fungicides having the signal word "caution" but not having  
 111 the word "warning" or "danger" on the label, ~~insecticidal soaps,~~

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112 ~~horticultural oils, and bacillus thuringiensis formulations.~~ The  
113 application equipment that may be used by a person certified  
114 pursuant to this section is limited to portable, handheld 3-  
115 gallon compressed air sprayers or backpack sprayers having no  
116 more than a 5-gallon capacity and does not include power  
117 equipment.

118 (2) (a) A person seeking limited certification under this  
119 section must pass an examination given by the department. Each  
120 application for examination must be accompanied by an  
121 examination fee set by rule of the department, in an amount of  
122 not more than \$150 or less than \$50, ~~however, until a rule~~  
123 ~~setting this fee is adopted by the department, the examination~~  
124 ~~fee is \$50.~~ Prior to the department's issuing a limited  
125 certification under this section, each person applying ~~making~~  
126 ~~application for the~~ certification ~~under this section~~ must  
127 furnish proof of having a certificate of insurance which states  
128 that the employer meets the requirements for minimum financial  
129 responsibility for bodily injury and property damage required by  
130 s. 482.071(4).

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

137 ~~(b)~~ The department shall provide the appropriate reference  
138 materials for the examination and make the examination readily

139 | accessible and available to applicants at least quarterly or as  
 140 | necessary in each county.

141 |         (3) An application for recertification under this section  
 142 | must be made annually and be accompanied by a recertification  
 143 | fee set by rule of the department, in an amount of not more than  
 144 | \$75 or less than \$25; ~~however, until a rule setting this fee is~~  
 145 | ~~adopted by the department, the fee for recertification is \$25.~~  
 146 | The application must also be accompanied by proof of having  
 147 | completed 4 classroom hours of acceptable continuing education  
 148 | and the same proof of having a certificate of insurance as is  
 149 | required for issuance of this ~~initial~~ certification. After a  
 150 | grace period not exceeding 30 calendar days following the annual  
 151 | date that recertification is due, a late renewal charge of \$50  
 152 | shall be assessed and must be paid in addition to the renewal  
 153 | fee. Unless timely recertified, a certificate automatically  
 154 | expires 180 calendar days after the anniversary recertification  
 155 | date. Subsequent to such expiration, a certificate may be issued  
 156 | only upon successful reexamination and upon payment of the  
 157 | examination fees due.

158 |         Section 5. Subsection (7) of section 482.211, Florida  
 159 | Statutes, is amended to read:

160 |             482.211 Exemptions.--This chapter does not apply to:

161 |             (7) ~~Area~~ Mosquito control activities conducted by a local  
 162 | government or district established under chapter 388 or by a  
 163 | contractor of the local government or district.

164 |         Section 6. Section 500.033, Florida Statutes, is amended  
 165 | to read:

166           500.033 Florida Food Safety and Food Defense Security  
 167 Advisory Council.--  
 168           (1) There is created the Florida Food Safety and Food  
 169 Defense Security Advisory Council for the purpose of serving as  
 170 a forum for presenting, investigating, and evaluating issues of  
 171 current importance to the assurance of a safe and secure food  
 172 supply to the citizens of Florida. The Florida Food Safety and  
 173 Food Defense Security Advisory Council shall consist of, but not  
 174 be limited to: the Commissioner of Agriculture or his or her  
 175 designee; the Secretary of Health or his or her designee; the  
 176 Secretary of Business and Professional Regulation or his or her  
 177 designee; the person responsible for domestic security with the  
 178 ~~Florida~~ Department of Law Enforcement; members representing the  
 179 production, processing, distribution, and sale of foods;  
 180 consumers or ~~and/or~~ members of citizens groups; representatives  
 181 of ~~or~~ food industry groups; scientists or other experts in  
 182 aspects of food safety from state universities; representatives  
 183 from local, state, and federal agencies that are charged with  
 184 responsibilities for food safety or food defense security; the  
 185 chairs of the Agriculture Committees of the Senate and the House  
 186 of Representatives or their designees; and the chairs of the  
 187 committees of the Senate and the House of Representatives with  
 188 jurisdictional oversight of home defense issues or their  
 189 designees. The Commissioner of Agriculture shall appoint the  
 190 remaining members. The council shall make periodic reports to  
 191 the Department of Agriculture and Consumer Services concerning  
 192 findings and recommendations in the area of food safety and food  
 193 defense security.

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194           (2) The council shall consider the development of  
195 appropriate advice or recommendations on food safety or food  
196 defense ~~security~~ issues. In the discharge of their duties, the  
197 council members may receive for review confidential data exempt  
198 from the provisions of s. 119.07(1); however, it is unlawful for  
199 any member of the council to use the data for his or her  
200 advantage or reveal the data to the general public.

201           Section 7. Section 570.954, Florida Statutes, is created  
202 to read:

203           570.954 Farm to fuel.--

204           (1) This section may be cited as the "Florida Farm to Fuel  
205 Act."

206           (2) The Legislature finds that:

207           (a) Utilization of Florida crops and biomass for  
208 production of bioenergy is important for the state's future  
209 energy stability, protection of its environment, and continued  
210 viability of its agriculture industry.

211           (b) Development of bioenergy will help to reduce demand  
212 for foreign fuels, reduce pollution, and promote economic  
213 growth.

214           (c) Assistance in the production and distribution of  
215 bioenergy in the state is needed.

216           (d) Production of bioenergy in the state is ideal due to  
217 the state's vast amount of farm acreage and mild climate, which  
218 permit crops to be grown virtually year round, and the  
219 availability of other biomass.

220           (3) This section is intended to provide grants to:



221 (a) Stimulate capital investment in the state and enhance  
 222 the market for and promote the production and distribution of  
 223 bioenergy.

224 (b) Advance the already growing establishment of bioenergy  
 225 technologies in the state and attract additional bioenergy  
 226 production to the state.

227 (c) Demonstrate technologies or processes that convert  
 228 Florida-grown crops, agricultural wastes and residues, and other  
 229 biomass into bioenergy.

230 (4) As used in this section, the term:

231 (a) "Biomass" means a power source that is comprised of,  
 232 but not limited to, combustible residues or gases from forest  
 233 products manufacturing, agricultural and orchard crops, waste  
 234 products from livestock and poultry operations and food  
 235 processing, urban wood waste, municipal solid waste, municipal  
 236 liquid waste treatment operations, and landfills.

237 (b) "Department" means the Department of Agriculture and  
 238 Consumer Services.

239 (c) "Person" means an individual, partnership, joint  
 240 venture, private or public corporation, association, firm,  
 241 public service company, or any other entity, public or private,  
 242 however organized.

243 (5) The Farm to Fuel Grants Program is established within  
 244 the department to provide grants for research, development, and  
 245 demonstration of commercial applications of bioenergy  
 246 technology.

247 (a) Grants made under this section for bioenergy projects  
248 may be made to any person who meets the criteria in this  
249 section.

250 (b) Factors the department may consider in awarding grants  
251 include, but are not limited to, the degree to which:

252 1. The project stimulates in-state capital investment and  
253 economic development in metropolitan and rural areas, including  
254 the creation of jobs and the future development of a commercial  
255 market for bioenergy.

256 2. The project produces bioenergy from Florida-grown crops  
257 or biomass.

258 3. The project demonstrates efficient use of energy and  
259 material resources.

260 4. The project fosters overall understanding and  
261 appreciation of bioenergy technologies.

262 5. Matching funds and in-kind contributions from an  
263 applicant are available.

264 6. The project duration and the timeline for expenditures  
265 are acceptable.

266 7. The project has a reasonable assurance of enhancing the  
267 value of agricultural products or will expand agribusiness in  
268 the state.

269 8. Preliminary market and feasibility research has been  
270 conducted by the applicant or others and shows there is a  
271 reasonable assurance of a potential market.

272 (6) Pursuant to s. 570.0705, the Commissioner of  
273 Agriculture and Consumer Services may appoint a Florida Farm to  
274 Fuel Advisory Council consisting of a diverse group of

275 stakeholders that includes, but is not limited to,  
 276 representatives of the agriculture industry, researchers, fuel  
 277 suppliers, technology manufacturers, and environmental  
 278 interests. The council shall provide advice and counsel to the  
 279 Commissioner of Agriculture and Consumer Services on the  
 280 production of bioenergy in the state.

281 (7) The department may adopt rules pursuant to ss.  
 282 120.536(1) and 120.54 to implement the provisions of this  
 283 section.

284 Section 8. Section 220.192, Florida Statutes, is created  
 285 to read:

286 220.192 Farm to fuel production tax credit.--

287 (1) For tax years beginning on or after January 1, 2007, a  
 288 credit against the tax imposed under this chapter shall be  
 289 granted in an amount to be determined as follows:

290 (a) A taxpayer who produces ethanol at a facility located  
 291 in this state is entitled to a credit against the taxpayer's  
 292 state tax liability equal to the product of 20 cents multiplied  
 293 by the number of gallons of ethanol produced at the facility  
 294 using Florida-grown commodities.

295 (b) A taxpayer who produces biodiesel at a facility  
 296 located in this state is entitled to a credit against the  
 297 taxpayer's state tax liability equal to the product of 20 cents  
 298 multiplied by the number of gallons of biodiesel produced at the  
 299 facility using Florida-grown commodities.

300 (2) The department shall adopt rules relating to the forms  
 301 required to claim a tax credit under this section, the  
 302 requirements and basis for establishing an entitlement to a

303 credit, and the examination and audit procedures required to  
 304 administer this section.

305 (3) This section is repealed July 1, 2010.

306 Section 9. Paragraphs (b) and (c) of subsection (1) of  
 307 section 582.06, Florida Statutes, are amended to read:

308 582.06 Soil and Water Conservation Council; powers and  
 309 duties.--

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

313 (b) Twelve ~~nonvoting ex officio~~ members shall include one  
 314 representative each from the Department of Environmental  
 315 Protection, the five water management districts, the Institute  
 316 of Food and Agricultural Sciences at the University of Florida,  
 317 the United States Department of Agriculture Natural Resources  
 318 Conservation Service, the Florida Association of Counties, and  
 319 the Florida League of Cities, and two representatives of  
 320 environmental interests.

321 (c) All members shall be appointed by the commissioner. ~~Ex~~  
 322 ~~officio~~ Members appointed pursuant to paragraph (b) shall be  
 323 appointed by the commissioner from recommendations provided by  
 324 the organization or interest represented.

325 Section 10. Subsection (3) of section 828.30, Florida  
 326 Statutes, is amended to read:

327 828.30 Rabies vaccination of dogs, cats, and ferrets.--

328 (3) Upon vaccination against rabies, the licensed  
 329 veterinarian shall provide the animal's owner and the animal  
 330 control authority with a rabies vaccination certificate. Each

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331 animal control authority and veterinarian shall use the ~~Form 51,~~  
332 "Rabies Vaccination Certificate," of the National Association of  
333 State Public Health Veterinarians (NASPHV) or an equivalent form  
334 approved by the local government that contains all the  
335 information required by the NASPHV Rabies Vaccination  
336 Certificate ~~Form 51~~. The veterinarian who administers the rabies  
337 vaccine to an animal as required under this section may affix  
338 his or her signature stamp in lieu of an actual signature.

339 Section 11. This act shall take effect July 1, 2006.