

## CHAMBER ACTION

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1 The State Resources Council recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to agriculture; amending s. 403.067, F.S.;  
7 clarifying rulemaking authority relating to pollution  
8 reduction; granting presumption of compliance with water  
9 quality standards for certain research; releasing certain  
10 research from penalties relating to the discharge of  
11 pollutants; amending s. 482.021, F.S.; revising the  
12 definitions of the terms "employee" and "independent  
13 contractor" for purposes of pest control regulation;  
14 amending s. 482.051, F.S.; revising certain requirements  
15 of the department to adopt rules relating to the use of  
16 pesticides for preventing subterranean termites in new  
17 construction; amending s. 482.091, F.S.; clarifying  
18 provisions governing the performance of pest control  
19 services; amending s. 482.156, F.S.; requiring  
20 certification of individual commercial landscape  
21 maintenance personnel; revising the types of materials  
22 such personnel may use; removing obsolete provisions  
23 relating to fees; revising requirements relating to proof

24 of education and insurance; revising the amount of  
25 required continuing education; removing a requirement for  
26 certain business experience; amending s. 482.211, F.S.;  
27 clarifying exemption of certain mosquito control  
28 activities from regulation; amending s. 500.033, F.S.;  
29 renaming the Florida Food Safety and Food Security  
30 Advisory Council as the Florida Food Safety and Food  
31 Defense Advisory Council and revising duties accordingly;  
32 amending s. 500.12, F.S.; providing an exemption from  
33 certain food inspections by the department; amending s.  
34 570.249, F.S.; expanding the conditions under which loan  
35 funds to certain agricultural producers may be granted;  
36 increasing the amount of funds that may be granted;  
37 defining "losses" and "essential physical property";  
38 creating s. 570.954, F.S.; authorizing the department, in  
39 consultation with the state energy office within the  
40 Department of Environmental Protection, to develop a farm-  
41 to-fuel initiative; providing purposes of the initiative;  
42 providing for a statewide information and education  
43 program; amending s. 582.06, F.S.; revising the membership  
44 of the Soil and Water Conservation Council; amending s.  
45 810.09, F.S.; providing criminal penalties for trespassing  
46 on certain property; requiring warning signage; amending  
47 s. 810.011, F.S.; defining "agricultural chemicals  
48 manufacturing facility"; amending s. 828.30, F.S.;  
49 updating references to the Rabies Vaccination Certificate;  
50 designating the Austin Dewey Gay Memorial Agricultural  
51 Inspection Station in Escambia County; directing the

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52 | department to erect suitable markers; providing an  
53 | effective date.

54 |  
55 | Be It Enacted by the Legislature of the State of Florida:  
56 |

57 | Section 1. Paragraph (c) of subsection (7) and paragraph  
58 | (b) of subsection (11) of section 403.067, Florida Statutes, are  
59 | amended to read:

60 | 403.067 Establishment and implementation of total maximum  
61 | daily loads.--

62 | (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND  
63 | IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.--

64 | (c) Best management practices.--

65 | 1. The department, in cooperation with the water  
66 | management districts and other interested parties, as  
67 | appropriate, may develop suitable interim measures, best  
68 | management practices, or other measures necessary to achieve the  
69 | level of pollution reduction established by the department for  
70 | nonagricultural nonpoint pollutant sources in allocations  
71 | developed pursuant to subsection (6) and this subsection. These  
72 | practices and measures may be adopted by rule by the department  
73 | and the water management districts pursuant to ss. 120.536(1)  
74 | and 120.54, and, where adopted by rule, shall be implemented by  
75 | those parties responsible for nonagricultural nonpoint source  
76 | pollution.

77 | 2. The Department of Agriculture and Consumer Services may  
78 | develop and adopt by rule pursuant to ss. 120.536(1) and 120.54  
79 | suitable interim measures, best management practices, or other

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80 | measures necessary to achieve the level of pollution reduction  
81 | established by the department for agricultural pollutant sources  
82 | in allocations developed pursuant to subsection (6) and this  
83 | subsection or for programs implemented pursuant to paragraph  
84 | (11)(b). These practices and measures may be implemented by  
85 | those parties responsible for agricultural pollutant sources and  
86 | the department, the water management districts, and the  
87 | Department of Agriculture and Consumer Services shall assist  
88 | with implementation. In the process of developing and adopting  
89 | rules for interim measures, best management practices, or other  
90 | measures, the Department of Agriculture and Consumer Services  
91 | shall consult with the department, the Department of Health, the  
92 | water management districts, representatives from affected  
93 | farming groups, and environmental group representatives. Such  
94 | rules shall also incorporate provisions for a notice of intent  
95 | to implement the practices and a system to assure the  
96 | implementation of the practices, including recordkeeping  
97 | requirements.

98 |       3. Where interim measures, best management practices, or  
99 | other measures are adopted by rule, the effectiveness of such  
100 | practices in achieving the levels of pollution reduction  
101 | established in allocations developed by the department pursuant  
102 | to subsection (6) and this subsection or in programs implemented  
103 | pursuant to paragraph (11)(b) shall be verified at  
104 | representative sites by the department. The department shall use  
105 | best professional judgment in making the initial verification  
106 | that the best management practices are reasonably expected to be  
107 | effective and, where applicable, shall notify the appropriate

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108 | water management district or ~~and~~ the Department of Agriculture  
 109 | and Consumer Services of its initial verification prior to the  
 110 | adoption of a rule proposed pursuant to this paragraph.  
 111 | Implementation, in accordance with rules adopted under this  
 112 | paragraph, of practices that have been initially verified to be  
 113 | effective, or verified to be effective by monitoring at  
 114 | representative sites, by the department, shall provide a  
 115 | presumption of compliance with state water quality standards and  
 116 | release from the provisions of s. 376.307(5) for those  
 117 | pollutants addressed by the practices, and the department is not  
 118 | authorized to institute proceedings against the owner of the  
 119 | source of pollution to recover costs or damages associated with  
 120 | the contamination of surface water or groundwater caused by  
 121 | those pollutants. Research funded by the department, a water  
 122 | management district, or the Department of Agriculture and  
 123 | Consumer Services to develop or demonstrate interim measures or  
 124 | best management practices is granted a presumption of compliance  
 125 | with state water quality standards and release from the  
 126 | provisions of s. 376.307(5), which are limited to the research  
 127 | site for those pollutants addressed by the practices.

128 |         4. Where water quality problems are demonstrated, despite  
 129 | the appropriate implementation, operation, and maintenance of  
 130 | best management practices and other measures according to rules  
 131 | adopted under this paragraph, the department, a water management  
 132 | district, or the Department of Agriculture and Consumer  
 133 | Services, in consultation with the department, shall institute a  
 134 | reevaluation of the best management practice or other measure.  
 135 | Should the reevaluation determine that the best management

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136 practice or other measure requires modification, the department,  
137 a water management district, or the Department of Agriculture  
138 and Consumer Services, as appropriate, shall revise the rule to  
139 require implementation of the modified practice within a  
140 reasonable time period as specified in the rule.

141 5. Individual agricultural records relating to processes  
142 or methods of production, or relating to costs of production,  
143 profits, or other financial information which are otherwise not  
144 public records, which are reported to the Department of  
145 Agriculture and Consumer Services pursuant to subparagraphs 3.  
146 and 4. or pursuant to any rule adopted pursuant to subparagraph  
147 2. shall be confidential and exempt from s. 119.07(1) and s.  
148 24(a), Art. I of the State Constitution. Upon request of the  
149 department or any water management district, the Department of  
150 Agriculture and Consumer Services shall make such individual  
151 agricultural records available to that agency, provided that the  
152 confidentiality specified by this subparagraph for such records  
153 is maintained. This subparagraph is subject to the Open  
154 Government Sunset Review Act of 1995 in accordance with s.  
155 119.15, and shall stand repealed on October 2, 2006, unless  
156 reviewed and saved from repeal through reenactment by the  
157 Legislature.

158 6. The provisions of subparagraphs 1. and 2. shall not  
159 preclude the department or water management district from  
160 requiring compliance with water quality standards or with  
161 current best management practice requirements set forth in any  
162 applicable regulatory program authorized by law for the purpose  
163 of protecting water quality. Additionally, subparagraphs 1. and

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164 2. are applicable only to the extent that they do not conflict  
165 with any rules adopted by the department that are necessary to  
166 maintain a federally delegated or approved program.

167 (11) IMPLEMENTATION OF ADDITIONAL PROGRAMS.--

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

175 Section 2. Subsections (7) and (12) of section 482.021,  
176 Florida Statutes, are amended to read:

177 482.021 Definitions.--For the purposes of this chapter,  
178 and unless otherwise required by the context, the term:

179 (7) "Employee" means a person who is employed by a  
180 licensee that provides that person with necessary training,  
181 supervision, pesticides, equipment, and insurance and who  
182 receives compensation from and is under the personal supervision  
183 and direct control of the licensee's certified operator in  
184 charge and licensee from whose ~~which~~ compensation ~~of~~ the  
185 licensee regularly deducts and matches federal insurance  
186 contributions and federal income and Social Security taxes.

187 (12) "Independent contractor" means an entity separate  
188 from the licensee that:

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

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

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

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

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

199 Section 3. Subsection (5) of section 482.051, Florida  
200 Statutes, is amended to read:

201 482.051 Rules.--The department has authority to adopt  
202 rules pursuant to ss. 120.536(1) and 120.54 to implement the  
203 provisions of this chapter. Prior to proposing the adoption of a  
204 rule, the department shall counsel with members of the pest  
205 control industry concerning the proposed rule. The department  
206 shall adopt rules for the protection of the health, safety, and  
207 welfare of pest control employees and the general public which  
208 require:

209 (5) That any pesticide used as the primary preventive  
210 treatment for ~~preconstruction treatments for the prevention of~~  
211 ~~subterranean termites~~ in new construction be applied in the  
212 amount, concentration, and treatment area in accordance with the  
213 label; that a copy of the label of the registered pesticide  
214 being applied be carried in a vehicle at the site where the  
215 pesticide is being applied; and that the licensee maintain for 3  
216 years the record of each preconstruction treatment, indicating  
217 the date of treatment, the location or address of the property  
218 treated, the total square footage of the structure treated, the



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219 type of pesticide applied, the concentration of each substance  
220 in the mixture applied, and the total amount of pesticide  
221 applied.

222 Section 4. Paragraph (a) of subsection (2) of section  
223 482.091, Florida Statutes, is amended to read:

224 482.091 Employee identification cards.--

225 (2)(a) An identification cardholder must be an employee of  
226 the licensee and work under the direction and supervision of the  
227 licensee's certified operator in charge and shall ~~may~~ not be an  
228 independent contractor. An identification cardholder shall  
229 operate ~~may perform~~ only ~~pest control services~~ out of, and ~~or~~  
230 for customers assigned ~~arising~~ from, the licensee's licensed  
231 business location. An identification cardholder shall ~~may~~ not  
232 perform any pest control independently of and without the  
233 knowledge of the licensee and the licensee's certified operator  
234 in charge and shall ~~may~~ perform pest control only for the  
235 licensee's customers.

236 Section 5. Subsections (1), (2), and (3) of section  
237 482.156, Florida Statutes, are amended to read:

238 482.156 Limited certification for commercial landscape  
239 maintenance personnel.--

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

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247 ~~horticultural oils, and bacillus thuringiensis formulations.~~ The  
248 application equipment that may be used by a person certified  
249 pursuant to this section is limited to portable, handheld 3-  
250 gallon compressed air sprayers or backpack sprayers having no  
251 more than a 5-gallon capacity and does not include power  
252 equipment.

253 (2) (a) A person seeking limited certification under this  
254 section must pass an examination given by the department. Each  
255 application for examination must be accompanied by an  
256 examination fee set by rule of the department, in an amount of  
257 not more than \$150 or less than \$50; ~~however, until a rule~~  
258 ~~setting this fee is adopted by the department, the examination~~  
259 ~~fee is \$50.~~ Prior to the department's issuing a limited  
260 certification under this section, each person applying making  
261 application for the certification under this section must  
262 furnish proof of having a certificate of insurance which states  
263 that the employer meets the requirements for minimum financial  
264 responsibility for bodily injury and property damage required by  
265 s. 482.071(4).

266 (b) To be eligible to take the examination, an applicant  
267 must have completed 6 & classroom hours of plant bed and  
268 ornamental continuing education training approved by the  
269 department and provide sufficient proof, according to criteria  
270 established by department rule, of having successfully completed  
271 the continuing education training that the applicant has been in  
272 the landscape maintenance business for at least 3 years.

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

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

277 |         (3) An application for recertification under this section  
278 | must be made annually and be accompanied by a recertification  
279 | fee set by rule of the department, in an amount of not more than  
280 | \$75 or less than \$25; ~~however, until a rule setting this fee is~~  
281 | ~~adopted by the department, the fee for recertification is \$25.~~  
282 | The application must also be accompanied by proof of having  
283 | completed 4 classroom hours of acceptable continuing education  
284 | and the same proof of having a certificate of insurance as is  
285 | required for issuance of this ~~initial~~ certification. After a  
286 | grace period not exceeding 30 calendar days following the annual  
287 | date that recertification is due, a late renewal charge of \$50  
288 | shall be assessed and must be paid in addition to the renewal  
289 | fee. Unless timely recertified, a certificate automatically  
290 | expires 180 calendar days after the anniversary recertification  
291 | date. Subsequent to such expiration, a certificate may be issued  
292 | only upon successful reexamination and upon payment of the  
293 | examination fees due.

294 |         Section 6. Subsection (7) of section 482.211, Florida  
295 | Statutes, is amended to read:

296 |             482.211 Exemptions.--This chapter does not apply to:

297 |             (7) ~~Area~~ Mosquito control activities conducted by a local  
298 | government or district established under chapter 388, by special  
299 | act, or by a contractor of the local government or district.

300 |         Section 7. Section 500.033, Florida Statutes, is amended  
301 | to read:

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302           500.033 Florida Food Safety and Food Defense Security  
 303 Advisory Council.--  
 304           (1) There is created the Florida Food Safety and Food  
 305 Defense Security Advisory Council for the purpose of serving as  
 306 a forum for presenting, investigating, and evaluating issues of  
 307 current importance to the assurance of a safe and secure food  
 308 supply to the citizens of Florida. The Florida Food Safety and  
 309 Food Defense Security Advisory Council shall consist of, but not  
 310 be limited to: the Commissioner of Agriculture or his or her  
 311 designee; the Secretary of Health or his or her designee; the  
 312 Secretary of Business and Professional Regulation or his or her  
 313 designee; the person responsible for domestic security with the  
 314 ~~Florida~~ Department of Law Enforcement; members representing the  
 315 production, processing, distribution, and sale of foods;  
 316 consumers or ~~and/or~~ members of citizens groups; representatives  
 317 of ~~or~~ food industry groups; scientists or other experts in  
 318 aspects of food safety from state universities; representatives  
 319 from local, state, and federal agencies that are charged with  
 320 responsibilities for food safety or food defense security; the  
 321 chairs of the Agriculture Committees of the Senate and the House  
 322 of Representatives or their designees; and the chairs of the  
 323 committees of the Senate and the House of Representatives with  
 324 jurisdictional oversight of home defense issues or their  
 325 designees. The Commissioner of Agriculture shall appoint the  
 326 remaining members. The council shall make periodic reports to  
 327 the Department of Agriculture and Consumer Services concerning  
 328 findings and recommendations in the area of food safety and food  
 329 defense security.

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330 (2) The council shall consider the development of  
331 appropriate advice or recommendations on food safety or food  
332 defense ~~security~~ issues. In the discharge of their duties, the  
333 council members may receive for review confidential data exempt  
334 from the provisions of s. 119.07(1); however, it is unlawful for  
335 any member of the council to use the data for his or her  
336 advantage or reveal the data to the general public.

337 Section 8. Paragraph (a) of subsection (1) of section  
338 500.12, Florida Statutes, is amended to read:

339 500.12 Food permits; building permits.--

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

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

349 2. Persons subject to continuous, onsite federal or state  
350 inspection.

351 3. Persons selling only legumes in the shell, either  
352 parched, roasted, or boiled.

353 4. Persons selling sugar cane or sorghum syrup that has  
354 been boiled and bottled at a location within the state, provided  
355 the bottles are labeled with the producer's name and street  
356 address, all added ingredients, the net weight or volume of the  
357 product, and a statement that reads, "This product has not been

358 | produced in a facility permitted by the Florida Department of  
 359 | Agriculture and Consumer Services."

360 | Section 9. Subsection (1) of section 570.249, Florida  
 361 | Statutes, is amended to read:

362 | 570.249 Agricultural Economic Development Program disaster  
 363 | loans and grants and aid.--

364 | (1) USE OF LOAN FUNDS.--

365 | (a) Loan funds to agricultural producers who have  
 366 | experienced ~~crop~~ losses from a natural disaster or a  
 367 | socioeconomic condition or event may be used to:

368 | 1. Restore, ~~or~~ replace, or remove debris from essential  
 369 | physical property, ~~such as animals, fences, equipment,~~  
 370 | ~~structural production facilities, and orchard trees;~~

371 | 2. Pay all or part of production costs associated with the  
 372 | disaster year. ~~†~~

373 | 3. Pay essential family living expenses. ~~†~~ ~~and~~

374 | 4. Restructure farm debts.

375 | (b) To be eligible, agricultural producers may have no  
 376 | more than 300 acres currently in production.

377 | (c) Funds may be issued as direct loans, or as loan  
 378 | guarantees for up to 90 percent of the total loan, in amounts  
 379 | not less than \$30,000 nor more than \$300,000 ~~\$250,000~~.

380 | Applicants must provide at least 10 percent equity.

381 | (d) For purposes of this subsection, the term:

382 | 1. "Losses" means loss or damage to crops, agricultural  
 383 | products, facilities, or infrastructure, or farmworker housing.

384 | 2. "Essential physical property" means fences, equipment,  
 385 | structural production facilities, such as shade houses and

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386 | greenhouses, other agricultural facilities or infrastructure, or  
387 | farmworker housing.

388 | Section 10. Section 570.954, Florida Statutes, is created  
389 | to read:

390 | 570.954 Farm-to-fuel initiative.--

391 | (1) The department may develop a farm-to-fuel initiative  
392 | to enhance the market for and promote the production and  
393 | distribution of renewable energy from Florida-grown crops,  
394 | agricultural wastes and residues, and other biomass and to  
395 | enhance the value of agricultural products or expand  
396 | agribusiness in the state.

397 | (2) The department may conduct a statewide comprehensive  
398 | information and education program aimed at educating the general  
399 | public about the benefits of renewable energy and the use of  
400 | alternative fuels.

401 | (3) The department shall coordinate with and solicit the  
402 | expertise of the state energy office within the Department of  
403 | Environmental Protection when developing and implementing this  
404 | initiative.

405 | Section 11. Paragraphs (b) and (c) of subsection (1) of  
406 | section 582.06, Florida Statutes, are amended to read:

407 | 582.06 Soil and Water Conservation Council; powers and  
408 | duties.--

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

412 | (b) Twelve ~~nonvoting ex officio~~ members shall include one  
413 | representative each from the Department of Environmental

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414 Protection, the five water management districts, the Institute  
 415 of Food and Agricultural Sciences at the University of Florida,  
 416 the United States Department of Agriculture Natural Resources  
 417 Conservation Service, the Florida Association of Counties, and  
 418 the Florida League of Cities, and two representatives of  
 419 environmental interests.

420 (c) All members shall be appointed by the commissioner. ~~Ex~~  
 421 ~~officio~~ Members appointed pursuant to paragraph (b) shall be  
 422 appointed by the commissioner from recommendations provided by  
 423 the organization or interest represented.

424 Section 12. Paragraph (h) is added to subsection (2) of  
 425 section 810.09, Florida Statutes, to read:

426 810.09 Trespass on property other than structure or  
 427 conveyance.--

428 (2)

429 (h) The offender commits a felony of the third degree,  
 430 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,  
 431 if the property trespassed upon is an agricultural chemicals  
 432 manufacturing facility that is legally posted and identified in  
 433 substantially the following manner: "THIS AREA IS A DESIGNATED  
 434 AGRICULTURAL CHEMICALS MANUFACTURING FACILITY, AND ANYONE WHO  
 435 TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

436 Section 13. Subsection (12) is added to section 810.011,  
 437 Florida Statutes, to read:

438 810.011 Definitions.--As used in this chapter:

439 (12) "Agricultural chemicals manufacturing facility" means  
 440 any facility, and any properties or structures associated with  
 441 the facility, used for the manufacture, processing, or storage



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442 of agricultural chemicals classified in Industry Group 287  
443 contained in the Standard Industrial Classification Manual,  
444 1987, as published by the Office of Management and Budget,  
445 Executive Office of the President.

446 Section 14. Subsection (3) of section 828.30, Florida  
447 Statutes, is amended to read:

448 828.30 Rabies vaccination of dogs, cats, and ferrets.--

449 (3) Upon vaccination against rabies, the licensed  
450 veterinarian shall provide the animal's owner and the animal  
451 control authority with a rabies vaccination certificate. Each  
452 animal control authority and veterinarian shall use the Form 51,  
453 "Rabies Vaccination Certificate," of the National Association of  
454 State Public Health Veterinarians (NASPHV) or an equivalent form  
455 approved by the local government that contains all the  
456 information required by the NASPHV Rabies Vaccination  
457 Certificate Form 51. The veterinarian who administers the rabies  
458 vaccine to an animal as required under this section may affix  
459 his or her signature stamp in lieu of an actual signature.

460 Section 15. Austin Dewey Gay Memorial Agricultural  
461 Inspection Station designated; Department of Agriculture and  
462 Consumer Services to erect suitable markers.--

463 (1) The agricultural inspection station located at or near  
464 mile marker 1 on Interstate Highway 10 in Escambia County is  
465 designated as the "Austin Dewey Gay Memorial Agricultural  
466 Inspection Station."

467 (2) The Department of Agriculture and Consumer Services is  
468 directed to erect suitable markers designating the Austin Dewey

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469 | Gay Memorial Agricultural Inspection Station as described in  
470 | subsection (1).

471 | Section 16. This act shall take effect July 1, 2006.