

1 A bill to be entitled
2 An act relating to agriculture; amending s. 403.067, F.S.;
3 clarifying rulemaking authority relating to pollution
4 reduction; granting presumption of compliance with water
5 quality standards for certain research; releasing certain
6 research from penalties relating to the discharge of
7 pollutants; amending s. 482.021, F.S.; revising the
8 definitions of the terms "employee" and "independent
9 contractor" for purposes of pest control regulation;
10 amending s. 482.051, F.S.; revising certain requirements
11 of the department to adopt rules relating to the use of
12 pesticides for preventing subterranean termites in new
13 construction; amending s. 482.091, F.S.; clarifying
14 provisions governing the performance of pest control
15 services; amending s. 482.156, F.S.; requiring
16 certification of individual commercial landscape
17 maintenance personnel; revising the types of materials
18 such personnel may use; removing obsolete provisions
19 relating to fees; revising requirements relating to proof
20 of education and insurance; revising the amount of
21 required continuing education; removing a requirement for
22 certain business experience; amending s. 482.211, F.S.;
23 clarifying exemption of certain mosquito control
24 activities from regulation; amending s. 500.033, F.S.;
25 renaming the Florida Food Safety and Food Security
26 Advisory Council as the Florida Food Safety and Food
27 Defense Advisory Council and revising duties accordingly;

28 | amending s. 500.12, F.S.; providing an exemption from
29 | certain food inspections by the department; amending s.
30 | 570.249, F.S.; expanding the conditions under which loan
31 | funds to certain agricultural producers may be granted;
32 | increasing the amount of funds that may be granted;
33 | defining "losses" and "essential physical property";
34 | creating s. 570.954, F.S.; authorizing the department, in
35 | consultation with the state energy office within the
36 | Department of Environmental Protection, to develop a farm-
37 | to-fuel initiative; providing purposes of the initiative;
38 | providing for a statewide information and education
39 | program; amending s. 582.06, F.S.; revising the membership
40 | of the Soil and Water Conservation Council; amending s.
41 | 810.09, F.S.; providing criminal penalties for trespassing
42 | on certain property; requiring warning signage; amending
43 | s. 810.011, F.S.; defining "agricultural chemicals
44 | manufacturing facility"; amending s. 828.30, F.S.;
45 | updating references to the Rabies Vaccination Certificate;
46 | designating the Austin Dewey Gay Memorial Agricultural
47 | Inspection Station in Escambia County; directing the
48 | department to erect suitable markers; prohibiting any
49 | person from remaining on certain property or in certain
50 | structures for commercial purposes under certain
51 | circumstances; providing for certain ad valorem taxation
52 | for agriculture equipment under certain circumstances;
53 | providing effective dates.
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
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
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

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
 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;

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
 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,~~
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
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:

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~~.

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

471 Section 16. For purposes of ss. 810.08 and 810.09, Florida
472 Statutes, no person may lawfully remain on any property or in
473 any structure that is held open to the public generally for
474 commercial purposes and from which agricultural products are
475 sold or is permitted under chapter 500, Florida Statutes, after
476 the owner or its agent orders that person to leave the premises
477 because the person is engaged in an activity deemed by the owner
478 or its agent to be detrimental to the commercial purposes for
479 which the premises is held open for the public.

480 Section 17. Assessment of obsolete agricultural
481 equipment.--

482 (1) For purposes of ad valorem property taxation,
483 agricultural equipment that is located on property classified as
484 agricultural under s. 193.461, Florida Statutes and that is no
485 longer usable for its intended purpose shall be deemed to have a
486 market value no greater than its value for salvage.

487 (2) This section shall take effect January 1, 2007.

488 Section 18. Except as otherwise expressly provided in this
489 act, this act shall take effect on July 1, 2006.