

By the Committee on Agriculture

575-412E-07

1 A bill to be entitled
2 An act relating to the Department of
3 Agriculture and Consumer Services; amending s.
4 487.041, F.S.; revising the registration
5 requirements for brands of pesticide
6 distributed or sold in the state; providing for
7 expiration on a specified date of requirements
8 for annual registration; providing for future
9 biennial registration; revising the
10 registration fee; requiring that proceeds of
11 the fee be deposited into the General
12 Inspection Trust Fund and used by the
13 department to administer ch. 487, F.S.;
14 providing for a fee to be imposed for late
15 registration; amending ss. 500.03 and 500.147,
16 F.S., relating to the Florida Food Safety Act;
17 updating references for purposes of provisions
18 governing the sale of bottled water and the
19 operation of bottled water plants; amending s.
20 502.012, F.S.; revising and clarifying
21 definitions; amending s. 502.014, F.S.;
22 revising the department's rulemaking authority
23 concerning lowfat cottage cheese; conforming
24 terminology; amending s. 502.053, F.S.;
25 revising the permitting requirements for
26 certain milk plants; deleting a provision
27 authorizing the department to issue a temporary
28 permit to milk haulers; amending s. 502.054,
29 F.S.; conforming terminology; amending s.
30 502.091, F.S.; clarifying provisions governing
31 the sale of milk and milk products; specifying

1 the types of food establishments at which such
2 products may be sold; providing requirements
3 for the sale of cheese made from raw milk;
4 repealing ss. 591.27-591.34, F.S., relating to
5 the designation, marking, and cutting of seed
6 trees; creating the Consumer Fireworks Task
7 Force within the department for certain
8 purposes; providing legislative findings;
9 providing for task force membership and
10 selection of chair and vice-chair; specifying
11 serving without compensation; providing for per
12 diem and travel expenses; requiring the
13 department to staff the task force; requiring a
14 report to the Legislature by a time certain;
15 providing for abolition of the task force;
16 providing an effective date.

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

19
20 Section 1. Present subsections (1), (2), (3), and (8)
21 and paragraphs (b) and (d) of subsection (4) of section
22 487.041, Florida Statutes, are amended, and a new subsection
23 (1) is added to that section, to read:

24 487.041 Registration.--

25 (1)(a) Each brand of pesticide, as defined in s.
26 487.021, that is distributed, sold, or offered for sale,
27 except as provided in this subsection, within this state or
28 delivered for transportation or transported in intrastate
29 commerce or between points within this state through any point
30 outside this state must be registered in the office of the
31 department, and such registration shall be renewed annually.

1 Emergency exemptions from registration may be authorized in
2 accordance with the rules of the department. The registrant
3 shall file with the department a statement including:
4 1. The name, business mailing address, and street
5 address of the registrant.
6 2. The name of the brand of pesticide.
7 3. An ingredient statement and a complete copy of the
8 labeling accompanying the brand of the pesticide, which must
9 conform to the registration, and a statement of all claims to
10 be made for it, including directions for use and a guaranteed
11 analysis showing the names and percentages by weight of each
12 active ingredient, the total percentage of inert ingredients,
13 and the names and percentages by weight of each "added
14 ingredient."
15 (b) For the purpose of defraying expenses of the
16 department in connection with carrying out the provisions of
17 this part, each person shall pay an annual registration fee of
18 \$250 for each registered brand of pesticide. The annual
19 registration fee for each special local need label and
20 experimental use permit is \$100. All registrations expire on
21 December 31 of each year. If the renewal of a brand of
22 pesticide, including the special local need label and
23 experimental use permit, is not filed by January 31 of the
24 renewal year, an additional fee of \$25 per brand of pesticide
25 shall be assessed per month and added to the original fee.
26 This additional fee may not exceed \$250 per brand of
27 pesticide. The additional fee must be paid by the registrant
28 before the renewal certificate for the registration of the
29 brand of pesticide is issued.
30
31

1 (c) This subsection does not apply to distributors or
2 retail dealers selling brands of pesticide if such brands of
3 pesticide are registered by another person.

4 (d) This subsection expires at midnight, December 31,
5 2008.

6 (2)(a)(1) Effective January 1, 2009, each brand of
7 ~~Every~~ pesticide, as defined in s. 487.021, which is
8 distributed, sold, or offered for sale, except as provided in
9 this section, within this state or delivered for
10 transportation or transported in intrastate commerce or
11 between points within this state through any point outside
12 this state ~~must shall~~ be registered in the office of the
13 department, and such registration shall be renewed biennially
14 ~~annually~~. Emergency exemptions from registration may be
15 authorized in accordance with the rules of the department. The
16 registrant shall file with the department a statement
17 including:

18 1.(a) The name, business mailing address, and street
19 address of the registrant.

20 2.(b) The name of the brand of pesticide.

21 3.(c) An ingredient statement and a complete copy of
22 the labeling accompanying the brand of the pesticide, which
23 ~~must shall~~ conform to the registration, and a statement of all
24 claims to be made for it, including directions for use and a
25 guaranteed analysis showing the names and percentages by
26 weight of each active ingredient, the total percentage of
27 inert ingredients, and the names and percentages by weight of
28 each "added ingredient."

29 (b)(2) Effective January 1, 2009, for the purpose of
30 defraying expenses of the department in connection with
31 carrying out the provisions of this part, each person shall

1 pay a biennial ~~an annual~~ registration fee ~~of \$250~~ for each
2 registered brand of pesticide. The registration of each brand
3 of pesticide shall cover a designated 2-year period beginning
4 on January 1 of each odd-numbered year and expiring on
5 December 31 of the following year. ~~The annual registration fee~~
6 ~~for each special local need label and experimental use permit~~
7 ~~shall be \$100~~. ~~All registrations expire on December 31 of each~~
8 ~~year~~. ~~Nothing in this section shall be construed as applying~~
9 ~~to distributors or retail dealers selling pesticides when~~
10 ~~such pesticides are registered by another person~~.

11 (c) Each registration issued by the department to a
12 registrant for a period beginning in an odd-numbered year
13 shall be assessed a fee of \$500 per brand of pesticide and a
14 fee of \$200 for each special local need label and experimental
15 use permit, and the registration shall expire on December 31
16 of the following year. Each registration issued by the
17 department to a registrant for a period beginning in an
18 even-numbered year shall be assessed a fee of \$250 per brand
19 of pesticide and fee of \$100 for each special local need label
20 and experimental use permit, and the registration shall expire
21 on December 31 of that year.

22 (d) All revenues collected, less those costs
23 determined by the department to be nonrecurring or one-time
24 costs, shall be deferred over the 2-year registration period,
25 deposited in the General Inspection Trust Fund, and used by
26 the department in carrying out the provisions of this chapter.

27 (e) If the renewal of a brand of pesticide, including
28 the special local need label and experimental use permit, is
29 not filed by January 31 of the renewal year, an additional fee
30 of \$25 per brand of pesticide shall be assessed per month and
31 added to the original fee. This additional fee may not exceed

1 \$250 per brand of pesticide. The additional fee must be paid
2 by the registrant before the renewal certificate for the
3 registration of the brand of pesticide is issued. The
4 additional fee shall be deposited into the General Inspection
5 Trust Fund.

6 (f) This subsection does not apply to distributors or
7 retail dealers selling brands of pesticide if such brands of
8 pesticide are registered by another person.

9 (3) The department shall adopt rules governing the
10 procedures for the registration of a brand of pesticide
11 ~~registration~~ and for the review of data submitted by an
12 applicant for registration of the brand of a pesticide. The
13 department shall determine whether the brand of a pesticide
14 should be registered, registered with conditions, or tested
15 under field conditions in this state. The department shall
16 determine whether each request ~~that all requests~~ for
17 registration of a brand of pesticide meets ~~registrations meet~~
18 the requirements of current state and federal law. The
19 department, whenever it deems it necessary in the
20 administration of this part, may require the manufacturer or
21 registrant to submit the complete formula, quantities shipped
22 into or manufactured in the state for distribution and sale,
23 evidence of the efficacy and the safety of any pesticide, and
24 other relevant data. The department may review and evaluate a
25 registered pesticide if new information is made available that
26 ~~which~~ indicates that use of the pesticide has caused an
27 unreasonable adverse effect on public health or the
28 environment. Such review shall be conducted upon the request
29 of the Secretary ~~of the Department~~ of Health in the event of
30 an unreasonable adverse effect on public health or the
31 Secretary ~~of the Department~~ of Environmental Protection in the

1 | event of an unreasonable adverse effect on the environment.
2 | Such review may result in modifications, revocation,
3 | cancellation, or suspension of the registration of a brand of
4 | pesticide ~~registration~~. The department, for reasons of
5 | adulteration, misbranding, or other good cause, may refuse or
6 | revoke the registration of the brand of any pesticide, after
7 | notice to the applicant or registrant giving the reason for
8 | the decision. The applicant may then request a hearing,
9 | pursuant to chapter 120, on the intention of the department to
10 | refuse or revoke registration, and, upon his or her failure to
11 | do so, the refusal or revocation shall become final without
12 | further procedure. ~~The In no event shall~~ registration of a
13 | brand of pesticide may not be construed as a defense for the
14 | commission of any offense prohibited under this part.

15 | (4) The department, in addition to its other duties
16 | under this section, has the power to:

17 | (b) Formally request the United States Environmental
18 | Protection Agency to require registrants of pesticides to
19 | provide the department with environmental test data generated
20 | in this state or generated by simulating environmental
21 | conditions in this state.

22 | (d) Require a registrant who discontinues the
23 | distribution of a brand of pesticide in this state to continue
24 | the registration of the brand of the pesticide for a minimum
25 | of 2 years or until no more remains on retailers' ~~retailer's~~
26 | shelves ~~if or 2 years after written notice to the department~~
27 | ~~of date of discontinuance;~~ provided such continued
28 | registration or sale is not specifically prohibited by the
29 | department or the United States Environmental Protection
30 | Agency.

31 |

1 (8) ~~Nothing in~~ This section does not affect ~~affects~~
2 the authority of the department to administer the pesticide
3 registration program under this part or the authority of the
4 Commissioner of Agriculture to approve the registration of a
5 brand of pesticide.

6 Section 2. Paragraph (d) of subsection (1) of section
7 500.03, Florida Statutes, is amended to read:

8 500.03 Definitions; construction; applicability.--

9 (1) For the purpose of this chapter, the term:

10 (d) "Bottled water" means a beverage, as described in
11 21 C.F.R. part 165(2006)(1996), that is processed in
12 compliance with 21 C.F.R. part 129(2006)(1996).

13 Section 3. Paragraph (a) of subsection (3) of section
14 500.147, Florida Statutes, is amended to read:

15 500.147 Inspection of food establishments and
16 vehicles; food safety pilot program.--

17 (3) For bottled water plants:

18 (a) Bottled water must be from an approved source.
19 Bottled water must be processed in conformance with 21 C.F.R.
20 part 129(2006)(1996), and must conform to 21 C.F.R. part 165
21 (2006)(1996). A person operating a bottled water plant shall
22 be responsible for all water sampling and analyses required by
23 this chapter.

24 Section 4. Section 502.012, Florida Statutes, is
25 amended to read:

26 502.012 Definitions.--The following definitions shall
27 apply in the interpretation and enforcement of this law:

28 (1) "Bulk milk pickup tanker" means a vehicle,
29 including the truck and tank, and necessary attachments, used
30 by a milk hauler to transport bulk raw milk for pasteurization
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1 from a dairy farm to a milk plant, receiving station, or
2 transfer station.

3 (2) "Dairy farm" means any place or premises where one
4 or more cows, ~~or~~ goats, sheep, water buffalo, or other hooved
5 mammals are kept, and from which a part or all of the milk is
6 provided, sold, or offered for sale ~~to a milk plant, receiving~~
7 ~~station, or transfer station.~~

8 (3) "Department" means the Department of Agriculture
9 and Consumer Services.

10 ~~(4)(15)~~ "Grade 'A' pasteurized milk ordinance" means
11 the document entitled "Grade 'A' Pasteurized Milk Ordinance,
12 United States Department of Health and Human Services, Public
13 Health Service, Food and Drug Administration Publication No.
14 ~~229,~~ including all associated appendices, as adopted by
15 department rule.

16 ~~(5)(4)~~ "Imitation milk and imitation milk products"
17 means those foods that have the physical characteristics, such
18 as taste, flavor, body, texture, or appearance, of milk or
19 milk products as defined in this chapter and the Grade "A"
20 pasteurized milk ordinance, but do not come within the
21 definition definitions of "milk" or "milk products" and are
22 nutritionally inferior to the product imitated.

23 ~~(6)(5)~~ "Milk" means the lacteal secretion, practically
24 free from colostrum, obtained by the complete milking of one
25 or more healthy cows, ~~or~~ goats, sheep, water buffalo, or other
26 hooved mammals.

27 ~~(7)(6)~~ "Milk distributor" means any person who offers
28 for sale or sells to another person any milk or milk product.

29 ~~(8)(7)~~ "Milk products" means products made with milk
30 that is processed in some manner, including being whipped,
31 acidified, cultured, concentrated, lactose-reduced, or

1 sodium-reduced or aseptically processed, or having the
2 addition or subtraction of milkfat, the addition of safe and
3 suitable microbial organisms, or the addition of safe and
4 suitable optional ingredients for protein, vitamin, or mineral
5 fortification. "Milk products" do not include products such as
6 evaporated milk, condensed milk, eggnog in a rigid metal
7 container, dietary products, infant formula, or ice cream and
8 other desserts, ~~dry milk products, canned eggnog in a rigid~~
9 ~~metal container, butter, or cheese, except when the products~~
10 ~~are combined with other substances to produce any pasteurized~~
11 ~~or aseptically processed milk product.~~

12 ~~(9)(8)~~ "Milkfat" or "butterfat" means the fat
13 contained in milk.

14 ~~(10)(9)~~ "Milk hauler" means any person who transports
15 raw milk or raw milk products to or from a milk plant,
16 receiving station, or transfer station.

17 ~~(11)(10)~~ "Milk plant" means any place, premises, or
18 establishment where milk or milk products are collected,
19 handled, processed, stored, pasteurized, aseptically
20 processed, bottled, or prepared for distribution.

21 ~~(12)(11)~~ "Milk plant operator" means any person
22 responsible for receiving, processing, pasteurizing, or
23 packaging milk and milk products, or performing any other
24 related operation.

25 ~~(13)(12)~~ "Milk producer" means any person who operates
26 a dairy farm and provides, sells, or offers for sale milk to a
27 milk plant, receiving station, or transfer station.

28 ~~(14)(13)~~ "Milk tank truck" means either a bulk milk
29 pickup tanker or a milk transport tank.

30 ~~(15)(14)~~ "Milk transport tank" means a vehicle,
31 including the truck and tank, used by a milk hauler to

1 transport bulk shipments of milk from a milk plant, receiving
2 station, or transfer station to another milk plant, receiving
3 station, or transfer station.

4 (16) "Raw milk" means unprocessed milk.

5 (17) "Receiving station" means any place, premises, or
6 establishment where raw milk is received, collected, handled,
7 stored, or cooled and is prepared for further transporting.

8 (18) "Substitute milk and substitute milk products"
9 means those foods that have the physical characteristics, such
10 as taste, flavor, body, texture, or appearance, of milk or
11 milk products as defined in this chapter and the Grade "A"
12 pasteurized milk ordinance, but do not come within the
13 definition ~~definitions~~ of "milk" or "milk products," and are
14 nutritionally equivalent to the product for which they are
15 substitutes.

16 (19) "Transfer station" means any place, premises, or
17 establishment where milk or milk products are transferred
18 directly from one milk tank truck to another.

19 (20) "Washing station" means any place, premises, or
20 establishment where milk tank trucks are cleaned and
21 sanitized.

22 Section 5. Subsections (4) and (6) of section 502.014,
23 Florida Statutes, are amended to read:

24 502.014 Powers and duties.--

25 (4) The department shall define by rule "cottage
26 cheese," and "dry-curd cottage cheese," ~~and "lowfat cottage~~
27 ~~cheese."~~ The department shall periodically update these
28 definitions to maintain conformity with the federal
29 definitions.

30 (6) The department has authority to adopt rules
31 pursuant to ss. 120.536(1) and 120.54 to implement and enforce

1 the provisions of this chapter. In adopting these rules, the
2 department shall be guided by and may conform to the
3 definitions and standards of the administrative procedures and
4 provisions of the Grade "A" pasteurized milk ordinance. The
5 rules shall include, but are not limited to:

6 (a) Standards for milk and milk products.

7 (b) Provisions for the production, transportation,
8 processing, handling, sampling, examination, grading,
9 labeling, and sale of all milk and milk products and imitation
10 and substitute milk and milk products sold for public
11 consumption in this state.

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

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

16 Section 6. Paragraph (a) of subsection (1), subsection
17 (2), and paragraph (a) of subsection (4) of section 502.053,
18 Florida Statutes, are amended to read:

19 502.053 Permits; requirements; exemptions; temporary
20 permits.--

21 (1) PERMITS.--

22 (a) Each Grade A milk plant, whether located in the
23 state or outside the state, and each manufacturing milk plant,
24 milk producer, milk hauler, milk hauling service, washing
25 station operator, milk plant operator, milk distributor,
26 single-service-container manufacturer, receiving station, and
27 transfer station in the state, shall apply to the department
28 for a permit to operate. The application shall be on forms
29 developed by the department.

30 (2) REQUIREMENTS.--

31

1 (a) To obtain a permit, an applicant must satisfy all
2 requirements that are defined by the department in rule and
3 must agree to comply with the applicable provisions of this
4 chapter and rules adopted ~~promulgated~~ under this chapter.

5 (b) All permitholders must maintain records of
6 transactions concerning the procurement, production, and
7 processing of milk and milk products as required in the Grade
8 "A" pasteurized milk ordinance and grant department inspectors
9 access to such records during all reasonable hours.

10 (c) In addition to the testing required in the Grade
11 "A" pasteurized milk ordinance and its appendices, each milk
12 plant operator in the state shall be responsible for routine
13 testing and inspection of raw milk shipped from outside the
14 state prior to processing and shall notify the department when
15 such testing and inspection indicate ~~indicates~~ a violation of
16 the standards contained in the Grade "A" pasteurized milk
17 ordinance.

18 (4) TEMPORARY PERMITS.--

19 (a) The department may issue a temporary permit for a
20 period not exceeding 90 days to milk producers ~~and milk~~
21 ~~haulers~~ who have submitted an application to the department
22 and passed a preliminary inspection as required in the Grade
23 "A" pasteurized milk ordinance.

24 Section 7. Section 502.054, Florida Statutes, is
25 amended to read:

26 502.054 Inspection and reinspection.--The department
27 shall establish a schedule for inspections which shall require
28 routine inspections in accordance with the minimum
29 requirements contained in the Grade "A" pasteurized milk
30 ordinance and more frequent inspections or reinspections for
31 permitholders with serious or repeated violations.

1 Section 8. Subsection (1) of section 502.091, Florida
2 Statutes, is amended to read:

3 502.091 Milk and milk products which may be sold.--

4 (1) Only Grade A pasteurized milk and milk products,
5 pasteurized manufactured milk products, and cheese made from
6 pasteurized milk shall be sold at retail to the final consumer
7 or to food service establishments as defined in chapter 381,
8 food establishments as defined in chapter 500, or public food
9 service establishments as defined in chapter 509 ~~restaurants,~~
10 ~~soda fountains, grocery stores, or similar establishments.~~
11 Cheese made from raw milk may also be sold at retail to the
12 final consumer or to food service establishments as defined in
13 chapter 381, food establishments as defined in chapter 500, or
14 public food service establishments as defined in chapter 509
15 if the cheese is aged more than 60 days at a temperature above
16 35° F.

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

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

1 temperature of at least 175° F. for at least 15 seconds or at
2 least 160° F. for at least 30 minutes.

3 Section 9. Sections 591.27, 591.28, 591.29, 591.30,
4 591.31, 591.32, 591.33, and 591.34, Florida Statutes, are
5 repealed.

6 Section 10. Consumer Fireworks Task Force.--

7 (1) The Legislature finds that:

8 (a) The state regulation of consumer fireworks in
9 Florida provides an insufficient definition of consumer
10 fireworks and related products used by consumers;

11 (b) There is a need for better training and education
12 concerning the safe use of consumer fireworks;

13 (c) There should be a mechanism to help local
14 governments fund the clean up following the use of consumer
15 fireworks on public property;

16 (d) Local government regulation of the agricultural
17 uses authorized by s. 791.012 are inconsistent with legitimate
18 agricultural purposes;

19 (e) There is a need for consumer education relating to
20 safety standards in the use of consumer fireworks;

21 (f) There is a need for standards concerning tents and
22 other temporary retail facilities selling consumer fireworks;
23 and

24 (g) The state would benefit from additional funding
25 for the training and education of fire officials.

26 (2)(a) There is hereby created the Consumer Fireworks
27 Task Force within the Department of Agriculture and Consumer
28 Services for the purpose of studying the issues concerning the
29 use of and proper use of consumer fireworks, regulation of
30 temporary sale facilities for consumer fireworks, and
31 regulation of the hours and location of the use of consumer

1 fireworks; studying funding options for fire official training
2 and education; and studying funding options for clean-up of
3 expended consumer fireworks products.

4 (b)1. The task force shall consist of seven members
5 appointed as follows: two members appointed by the President
6 of the Senate; two members appointed by the Speaker of the
7 House of Representatives; two members appointed by the
8 Commissioner of Agriculture; and one member appointed by the
9 Chief Financial Officer.

10 2. Members shall choose a chair and vice-chair from
11 its membership.

12 3. Members shall serve without compensation, except
13 that members are entitled to per diem and travel expenses,
14 pursuant to s. 112.061, incurred in the performance of their
15 duties.

16 (3) Staffing for the task force shall be provided by
17 the Department of Agriculture and Consumer Services.

18 (4) The task force shall review and evaluate the
19 issues identified in paragraph (2)(a) and take public input
20 and testimony concerning the issues. A report of the
21 recommendations and findings of the task force shall submitted
22 to the President of the Senate and the Speaker of the House of
23 Representatives by January 15, 2008, and the task force shall
24 be abolished upon the transmittal of the report.

25 Section 11. This act shall take effect July 1, 2007.

SENATE SUMMARY

Revises the registration requirements for brands of pesticides. Provides for biennial registration effective January 1, 2009. Updates references to the federal law applicable to the regulation of the sale of bottled water and the operation of bottled water plants. Revises various provisions governing the regulation of milk plants and the sale of milk and milk products by the Department of Agriculture and Consumer Services. Repeals provisions governing the designation, marking, and cutting of seed trees. Creates the Consumer Fireworks Task Force within the department to report to the Legislature on the use of fireworks by consumers and on the regulation of temporary sale facilities. (See bill for details.)

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