

1                                   A bill to be entitled  
2           An act relating to the Department of Agriculture and  
3           Consumer Services; amending s. 487.041, F.S.; revising the  
4           registration requirements for brands of pesticide  
5           distributed or sold in the state; providing for expiration  
6           on a specified date of requirements for annual  
7           registration; providing for future biennial registration;  
8           revising the registration fee; requiring that proceeds of  
9           the fee be deposited into the General Inspection Trust  
10          Fund and used by the department to administer ch. 487,  
11          F.S.; providing for a fee to be imposed for late  
12          registration; amending ss. 500.03 and 500.147, F.S.,  
13          relating to the Florida Food Safety Act; updating  
14          references for purposes of provisions governing the sale  
15          of bottled water and the operation of bottled water  
16          plants; amending s. 502.012, F.S.; revising and clarifying  
17          definitions; amending s. 502.014, F.S.; revising the  
18          department's rulemaking authority concerning lowfat  
19          cottage cheese; conforming terminology; amending s.  
20          502.053, F.S.; revising the permitting requirements for  
21          certain milk plants; deleting a provision authorizing the  
22          department to issue a temporary permit to milk haulers;  
23          amending s. 502.054, F.S.; conforming terminology;  
24          amending s. 502.091, F.S.; clarifying provisions governing  
25          the sale of milk and milk products; specifying the types  
26          of food establishments at which such products may be sold;  
27          providing requirements for the sale of cheese made from  
28          raw milk; repealing ss. 591.27-591.34, F.S., relating to

29 the designation, marking, and cutting of seed trees;  
 30 creating the Consumer Fireworks Task Force within the  
 31 department for certain purposes; providing legislative  
 32 findings; providing for task force membership and  
 33 selection of chair and vice-chair; specifying serving  
 34 without compensation; providing for per diem and travel  
 35 expenses; requiring the department to staff the task  
 36 force; requiring a report to the Legislature by a time  
 37 certain; providing for abolition of the task force;  
 38 providing an effective date.

39

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

41

42 Section 1. Present subsections (1), (2), (3), and (8) and  
 43 paragraphs (b) and (d) of subsection (4) of section 487.041,  
 44 Florida Statutes, are amended, and a new subsection (1) is added  
 45 to that section, to read:

46 487.041 Registration.--

47 (1) (a) Each brand of pesticide, as defined in s. 487.021,  
 48 that is distributed, sold, or offered for sale, except as  
 49 provided in this subsection, within this state or delivered for  
 50 transportation or transported in intrastate commerce or between  
 51 points within this state through any point outside this state  
 52 must be registered in the office of the department, and such  
 53 registration shall be renewed annually. Emergency exemptions  
 54 from registration may be authorized in accordance with the rules  
 55 of the department. The registrant shall file with the department  
 56 a statement including:

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- 57        1. The name, business mailing address, and street address  
58 of the registrant.
- 59        2. The name of the brand of pesticide.
- 60        3. An ingredient statement and a complete copy of the  
61 labeling accompanying the brand of the pesticide, which must  
62 conform to the registration, and a statement of all claims to be  
63 made for it, including directions for use and a guaranteed  
64 analysis showing the names and percentages by weight of each  
65 active ingredient, the total percentage of inert ingredients,  
66 and the names and percentages by weight of each "added  
67 ingredient."
- 68        (b) For the purpose of defraying expenses of the  
69 department in connection with carrying out the provisions of  
70 this part, each person shall pay an annual registration fee of  
71 \$250 for each registered brand of pesticide. The annual  
72 registration fee for each special local need label and  
73 experimental use permit is \$100. All registrations expire on  
74 December 31 of each year. If the renewal of a brand of  
75 pesticide, including the special local need label and  
76 experimental use permit, is not filed by January 31 of the  
77 renewal year, an additional fee of \$25 per brand of pesticide  
78 shall be assessed per month and added to the original fee. This  
79 additional fee may not exceed \$250 per brand of pesticide. The  
80 additional fee must be paid by the registrant before the renewal  
81 certificate for the registration of the brand of pesticide is  
82 issued.

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

86           (d) This subsection expires at midnight, December 31,  
 87 2008.

88           (2) (a) ~~(1)~~ Effective January 1, 2009, each brand of ~~Every~~  
 89 pesticide, as defined in s. 487.021, that ~~which~~ is distributed,  
 90 sold, or offered for sale, except as provided in this section,  
 91 within this state or delivered for transportation or transported  
 92 in intrastate commerce or between points within this state  
 93 through any point outside this state ~~must shall~~ be registered in  
 94 the office of the department, and such registration shall be  
 95 renewed ~~biennially~~ annually. Emergency exemptions from  
 96 registration may be authorized in accordance with the rules of  
 97 the department. The registrant shall file with the department a  
 98 statement including:

99           1. ~~(a)~~ The name, business mailing address, and street  
 100 address of the registrant.

101           2. ~~(b)~~ The name of the brand of pesticide.

102           3. ~~(e)~~ An ingredient statement and a complete copy of the  
 103 labeling accompanying the brand of the pesticide, which ~~must~~  
 104 ~~shall~~ conform to the registration, and a statement of all claims  
 105 to be made for it, including directions for use and a guaranteed  
 106 analysis showing the names and percentages by weight of each  
 107 active ingredient, the total percentage of inert ingredients,  
 108 and the names and percentages by weight of each "added  
 109 ingredient."

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110        (b) (2) Effective January 1, 2009, for the purpose of  
111 defraying expenses of the department in connection with carrying  
112 out the provisions of this part, each person shall pay a  
113 biennial ~~an annual~~ registration fee ~~of \$250~~ for each registered  
114 brand of pesticide. The registration of each brand of pesticide  
115 shall cover a designated 2-year period beginning on January 1 of  
116 each odd-numbered year and expiring on December 31 of the  
117 following year. The annual registration fee for each special  
118 local need label and experimental use permit shall be \$100. All  
119 registrations expire on December 31 of each year. Nothing in  
120 this section shall be construed as applying to distributors or  
121 retail dealers selling pesticides when such pesticides are  
122 registered by another person.

123        (c) Each registration issued by the department to a  
124 registrant for a period beginning in an odd-numbered year shall  
125 be assessed a fee of \$500 per brand of pesticide and a fee of  
126 \$200 for each special local need label and experimental use  
127 permit, and the registration shall expire on December 31 of the  
128 following year. Each registration issued by the department to a  
129 registrant for a period beginning in an even-numbered year shall  
130 be assessed a fee of \$250 per brand of pesticide and fee of \$100  
131 for each special local need label and experimental use permit,  
132 and the registration shall expire on December 31 of that year.

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

138        (e) If the renewal of a brand of pesticide, including the  
 139 special local need label and experimental use permit, is not  
 140 filed by January 31 of the renewal year, an additional fee of  
 141 \$25 per brand of pesticide shall be assessed per month and added  
 142 to the original fee. This additional fee may not exceed \$250 per  
 143 brand of pesticide. The additional fee must be paid by the  
 144 registrant before the renewal certificate for the registration  
 145 of the brand of pesticide is issued.

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

149        (3) The department shall adopt rules governing the  
 150 procedures for the registration of a brand of pesticide  
 151 ~~registration~~ and for the review of data submitted by an  
 152 applicant for registration of the brand of a pesticide. The  
 153 department shall determine whether the brand of a pesticide  
 154 should be registered, registered with conditions, or tested  
 155 under field conditions in this state. The department shall  
 156 determine whether each request ~~that all requests~~ for  
 157 registration of a brand of pesticide meets ~~registrations meet~~  
 158 the requirements of current state and federal law. The  
 159 department, whenever it deems it necessary in the administration  
 160 of this part, may require the manufacturer or registrant to  
 161 submit the complete formula, quantities shipped into or  
 162 manufactured in the state for distribution and sale, evidence of  
 163 the efficacy and the safety of any pesticide, and other relevant  
 164 data. The department may review and evaluate a registered  
 165 pesticide if new information is made available that ~~which~~

166 indicates that use of the pesticide has caused an unreasonable  
167 adverse effect on public health or the environment. Such review  
168 shall be conducted upon the request of the Secretary ~~of the~~  
169 ~~Department~~ of Health in the event of an unreasonable adverse  
170 effect on public health or the Secretary ~~of the Department~~ of  
171 Environmental Protection in the event of an unreasonable adverse  
172 effect on the environment. Such review may result in  
173 modifications, revocation, cancellation, or suspension of the  
174 registration of a brand of pesticide registration. The  
175 department, for reasons of adulteration, misbranding, or other  
176 good cause, may refuse or revoke the registration of the brand  
177 of any pesticide, after notice to the applicant or registrant  
178 giving the reason for the decision. The applicant may then  
179 request a hearing, pursuant to chapter 120, on the intention of  
180 the department to refuse or revoke registration, and, upon his  
181 or her failure to do so, the refusal or revocation shall become  
182 final without further procedure. The ~~In no event shall~~  
183 registration of a brand of pesticide may not be construed as a  
184 defense for the commission of any offense prohibited under this  
185 part.

186 (4) The department, in addition to its other duties under  
187 this section, has the power to:

188 (b) Formally request the United States Environmental  
189 Protection Agency to require registrants of brands of pesticide  
190 ~~pesticides~~ to provide the department with environmental test  
191 data generated in this state or generated by simulating  
192 environmental conditions in this state.

193 (d) Require a registrant who discontinues the distribution  
 194 of a brand of pesticide in this state to continue the  
 195 registration of the brand of the pesticide for a minimum of 2  
 196 years or until no more remains on retailers' ~~retailer's~~ shelves  
 197 if or 2 years after written notice to the department of date of  
 198 ~~discontinuance, provided~~ such continued registration or sale is  
 199 not specifically prohibited by the department or the United  
 200 States Environmental Protection Agency.

201 (8) ~~Nothing in~~ This section does not affect ~~affects~~ the  
 202 authority of the department to administer the pesticide  
 203 registration program under this part or the authority of the  
 204 Commissioner of Agriculture to approve the registration of a  
 205 brand of pesticide.

206 Section 2. Paragraph (d) of subsection (1) of section  
 207 500.03, Florida Statutes, is amended to read:

208 500.03 Definitions; construction; applicability.--

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

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

213 Section 3. Paragraph (a) of subsection (3) of section  
 214 500.147, Florida Statutes, is amended to read:

215 500.147 Inspection of food establishments and vehicles;  
 216 food safety pilot program.--

217 (3) For bottled water plants:

218 (a) Bottled water must be from an approved source. Bottled  
 219 water must be processed in conformance with 21 C.F.R. part 129  
 220 (2006) (1996), and must conform to 21 C.F.R. part 165



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221 (2006)~~(1996)~~. A person operating a bottled water plant shall be  
 222 responsible for all water sampling and analyses required by this  
 223 chapter.

224 Section 4. Section 502.012, Florida Statutes, is amended  
 225 to read:

226 502.012 Definitions.--The following definitions shall  
 227 apply in the interpretation and enforcement of this law:

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

233 (2) "Dairy farm" means any place or premises where one or  
 234 more cows, or goats, sheep, water buffalo, or other hoofed  
 235 mammals are kept, and from which a part or all of the milk is  
 236 provided, sold, or offered for sale ~~to a milk plant, receiving~~  
 237 ~~station, or transfer station.~~

238 (3) "Department" means the Department of Agriculture and  
 239 Consumer Services.

240 (4)~~(15)~~ "Grade 'A' pasteurized milk ordinance" means the  
 241 document entitled "Grade 'A' Pasteurized Milk Ordinance, United  
 242 States Department of Health and Human Services, Public Health  
 243 Service, /Food and Drug Administration Publication No. 229,  
 244 including all associated appendices, as adopted by department  
 245 rule.

246 (5)~~(4)~~ "Imitation milk and imitation milk products" means  
 247 those foods that have the physical characteristics, such as  
 248 taste, flavor, body, texture, or appearance, of milk or milk

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249 products as defined in this chapter and the Grade "A"  
250 pasteurized milk ordinance, but do not come within the  
251 definition ~~definitions~~ of "milk" or "milk products," and are  
252 nutritionally inferior to the product imitated.

253 (6) ~~(5)~~ "Milk" means the lacteal secretion, practically  
254 free from colostrum, obtained by the complete milking of one or  
255 more healthy cows, or goats, sheep, water buffalo, or other  
256 hoofed mammals.

257 (7) ~~(6)~~ "Milk distributor" means any person who offers for  
258 sale or sells to another person any milk or milk product.

259 (8) ~~(7)~~ "Milk products" means products made with milk that  
260 is processed in some manner, including being whipped, acidified,  
261 cultured, concentrated, lactose-reduced, or sodium-reduced or  
262 aseptically processed, or having the addition or subtraction of  
263 milkfat, the addition of safe and suitable microbial organisms,  
264 or the addition of safe and suitable optional ingredients for  
265 protein, vitamin, or mineral fortification. "Milk products" do  
266 not include products such as evaporated milk, condensed milk,  
267 eggnog in a rigid metal container, dietary products, infant  
268 formula, or ice cream and other desserts, ~~dry milk products,~~  
269 ~~canned eggnog in a rigid metal container, butter, or cheese,~~  
270 ~~except when the products are combined with other substances to~~  
271 ~~produce any pasteurized or aseptically processed milk product.~~

272 (9) ~~(8)~~ "Milkfat" or "butterfat" means the fat contained in  
273 milk.

274 (10) ~~(9)~~ "Milk hauler" means any person who transports raw  
275 milk or raw milk products to or from a milk plant, receiving  
276 station, or transfer station.

277        (11)~~(10)~~ "Milk plant" means any place, premises, or  
 278 establishment where milk or milk products are collected,  
 279 handled, processed, stored, pasteurized, aseptically processed,  
 280 bottled, or prepared for distribution.

281        (12)~~(11)~~ "Milk plant operator" means any person  
 282 responsible for receiving, processing, pasteurizing, or  
 283 packaging milk and milk products, or performing any other  
 284 related operation.

285        (13)~~(12)~~ "Milk producer" means any person who operates a  
 286 dairy farm and provides, sells, or offers for sale milk to a  
 287 milk plant, receiving station, or transfer station.

288        (14)~~(13)~~ "Milk tank truck" means either a bulk milk pickup  
 289 tanker or a milk transport tank.

290        (15)~~(14)~~ "Milk transport tank" means a vehicle, including  
 291 the truck and tank, used by a milk hauler to transport bulk  
 292 shipments of milk from a milk plant, receiving station, or  
 293 transfer station to another milk plant, receiving station, or  
 294 transfer station.

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

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

299        (18) "Substitute milk and substitute milk products" means  
 300 those foods that have the physical characteristics, such as  
 301 taste, flavor, body, texture, or appearance, of milk or milk  
 302 products as defined in this chapter and the Grade "A"  
 303 pasteurized milk ordinance, but do not come within the  
 304 definition ~~definitions~~ of "milk" or "milk products," and are

305 | nutritionally equivalent to the product for which they are  
 306 | substitutes.

307 |       (19) "Transfer station" means any place, premises, or  
 308 | establishment where milk or milk products are transferred  
 309 | directly from one milk tank truck to another.

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

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

314 |       502.014 Powers and duties.--

315 |       (4) The department shall define by rule "cottage cheese~~7~~"  
 316 | and "dry-curd cottage cheese," ~~and "lowfat cottage cheese."~~ The  
 317 | department shall periodically update these definitions to  
 318 | maintain conformity with the federal definitions.

319 |       (6) The department has authority to adopt rules pursuant  
 320 | to ss. 120.536(1) and 120.54 to implement and enforce the  
 321 | provisions of this chapter. In adopting these rules, the  
 322 | department shall be guided by and may conform to the definitions  
 323 | and standards of the administrative procedures and provisions of  
 324 | the Grade "A" pasteurized milk ordinance. The rules shall  
 325 | include, but are not limited to:

326 |       (a) Standards for milk and milk products.

327 |       (b) Provisions for the production, transportation,  
 328 | processing, handling, sampling, examination, grading, labeling,  
 329 | and sale of all milk and milk products and imitation and  
 330 | substitute milk and milk products sold for public consumption in  
 331 | this state.

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

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

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

339 502.053 Permits; requirements; exemptions; temporary  
340 permits.--

341 (1) PERMITS.--

342 (a) Each Grade A milk plant, whether located in the state  
343 or outside the state, and each manufacturing milk plant, milk  
344 producer, milk hauler, milk hauling service, washing station  
345 operator, milk plant operator, milk distributor, single-service-  
346 container manufacturer, receiving station, and transfer station  
347 in the state, shall apply to the department for a permit to  
348 operate. The application shall be on forms developed by the  
349 department.

350 (2) REQUIREMENTS.--

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

355 (b) All permitholders must maintain records of  
356 transactions concerning the procurement, production, and  
357 processing of milk and milk products as required in the Grade  
358 "A" pasteurized milk ordinance and grant department inspectors  
359 access to such records during all reasonable hours.

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360 (c) In addition to the testing required in the Grade "A"  
 361 pasteurized milk ordinance and its appendices, each milk plant  
 362 operator in the state shall be responsible for routine testing  
 363 and inspection of raw milk shipped from outside the state prior  
 364 to processing and shall notify the department when such testing  
 365 and inspection indicate ~~indicates~~ a violation of the standards  
 366 contained in the Grade "A" pasteurized milk ordinance.

367 (4) TEMPORARY PERMITS.--

368 (a) The department may issue a temporary permit for a  
 369 period not exceeding 90 days to milk producers ~~and milk haulers~~  
 370 who have submitted an application to the department and passed a  
 371 preliminary inspection as required in the Grade "A" pasteurized  
 372 milk ordinance.

373 Section 7. Section 502.054, Florida Statutes, is amended  
 374 to read:

375 502.054 Inspection and reinspection.--The department shall  
 376 establish a schedule for inspections which shall require routine  
 377 inspections in accordance with the minimum requirements  
 378 contained in the Grade "A" pasteurized milk ordinance and more  
 379 frequent inspections or reinspections for permitholders with  
 380 serious or repeated violations.

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

383 502.091 Milk and milk products which may be sold.--

384 (1) Only Grade A pasteurized milk and milk products,  
 385 pasteurized manufactured milk products, and cheese made from  
 386 pasteurized milk shall be sold at retail to the final consumer  
 387 or to food service establishments as defined in chapter 381,

388 food establishments as defined in chapter 500, or public food  
 389 service establishments as defined in chapter 509 ~~restaurants,~~  
 390 ~~soda fountains, grocery stores, or similar establishments.~~  
 391 Cheese made from raw milk may also be sold at retail to the  
 392 final consumer or to food service establishments as defined in  
 393 chapter 381, food establishments as defined in chapter 500, or  
 394 public food service establishments as defined in chapter 509 if  
 395 the cheese is aged more than 60 days at a temperature above 35°  
 396 F.

397 (a) In an emergency, however, the department may authorize  
 398 the sale of reconstituted pasteurized milk products, or  
 399 pasteurized milk and milk products that have not been graded or  
 400 the grade of which ~~that~~ is unknown, in which case such milk and  
 401 milk products shall be appropriately labeled, as determined by  
 402 the department.

403 (b) If the department determines that milk is fit for  
 404 human consumption even though it is less than Grade A because  
 405 the producer failed to comply with the sanitation or bacterial  
 406 standards defined in this chapter, or if any specific shipment  
 407 of milk fails to comply with standards of the Grade "A"  
 408 pasteurized milk ordinance, the department may issue a permit  
 409 allowing the milk to be used in ungraded products, such as  
 410 frozen desserts, which are being processed by such milk plant.  
 411 During processing of such milk, it shall be pasteurized at a  
 412 temperature of at least 175° F. for at least 15 seconds or at  
 413 least 160° F. for at least 30 minutes.

414           Section 9. Sections 591.27, 591.28, 591.29, 591.30,  
415 591.31, 591.32, 591.33, and 591.34, Florida Statutes, are  
416 repealed.

417           Section 10. Consumer Fireworks Task Force.--

418           (1) The Legislature finds that:

419           (a) The state regulation of consumer fireworks in Florida  
420 provides an insufficient definition of consumer fireworks and  
421 related products used by consumers;

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

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

427           (d) Local government regulation of the agricultural uses  
428 authorized by s. 791.012 are inconsistent with legitimate  
429 agricultural purposes;

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

432           (f) There is a need for standards concerning tents and  
433 other temporary retail facilities selling consumer fireworks;  
434 and

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

437           (2) (a) There is hereby created the Consumer Fireworks Task  
438 Force within the Department of Agriculture and Consumer Services  
439 for the purpose of studying the issues concerning the use of and  
440 proper use of consumer fireworks, regulation of temporary sale  
441 facilities for consumer fireworks, and regulation of the hours



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442 and location of the use of consumer fireworks; studying funding  
443 options for fire official training and education; and studying  
444 funding options for clean-up of expended consumer fireworks  
445 products.

446 (b)1. The task force shall consist of seven members  
447 appointed as follows: two members appointed by the President of  
448 the Senate; two members appointed by the Speaker of the House of  
449 Representatives; two members appointed by the Commissioner of  
450 Agriculture; and one member appointed by the Chief Financial  
451 Officer.

452 2. Members shall choose a chair and vice-chair from its  
453 membership.

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

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

459 (4) The task force shall review and evaluate the issues  
460 identified in paragraph (2) (a) and take public input and  
461 testimony concerning the issues. A report of the recommendations  
462 and findings of the task force shall submitted to the President  
463 of the Senate and the Speaker of the House of Representatives by  
464 January 15, 2008, and the task force shall be abolished upon the  
465 transmittal of the report.

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