

1 A bill to be entitled
2 An act relating to relating to protecting urban and
3 residential environments and water; creating s. 403.9335,
4 F.S.; providing a short title; creating s. 403.9336, F.S.;
5 providing legislative findings; creating s. 403.9337,
6 F.S.; requiring adoption of the Florida Friendly
7 Fertilizer Use on Urban Landscapes Model Ordinance by a
8 specified time; providing for adoption of additional or
9 more stringent provisions; providing an exception to
10 adoption; creating s. 403.9338, F.S.; providing that the
11 minimum training program for limited certification for
12 commercial fertilizer application issued by the Department
13 of Agriculture and Consumer Services be designed,
14 approved, and made available by the Department of
15 Environmental Protection and the Institute of Food and
16 Agricultural Sciences; providing for hours and subjects of
17 training; requiring the Department of Environmental
18 Protection to contract with the Institute of Food and
19 Agricultural Sciences to lead the training effort;
20 providing for co-location of programs; requiring the
21 Department of Environmental Protection to provide program
22 training coordinators; providing for regional train-the-
23 trainers classes; requiring trainer certification;
24 providing trainer criteria; requiring publication of
25 certain training information; requiring issuance of the
26 trainer certificate by a specified time; requiring the
27 maintenance and publication of a list of qualified
28 trainers; amending s. 482.021, F.S.; providing

29 definitions; amending s. 482.091, F.S.; requiring issuance
30 of identification cards for persons who apply fertilizer
31 commercially to urban lawnscapes indicating receipt of a
32 training certificate; providing for required use;
33 providing an exception; amending s. 482.156, F.S.;
34 deleting requirement for proof of certain training
35 requirements established by the Department of Agriculture
36 and Consumer Services; providing certain exception for
37 persons holding the limited certificate for commercial
38 landscape maintenance from holding other certification;
39 requiring such persons to receive specified training by a
40 time certain; creating s. 482.1561, F.S.; providing for
41 regulation of commercial fertilizer application on urban
42 lawnscapes and urban turf; requiring certification of such
43 applicators by the department; providing for certain
44 applicators to be under the direct supervision of certain
45 certified persons; requiring such fertilizer application
46 be in compliance with best management practices adopted by
47 the Department of Agriculture and Consumer Services and
48 the Department of Environmental Protection; creating s.
49 482.1562, F.S.; establishing a limited certification
50 category for commercial fertilizer application under the
51 Department of Agriculture and Consumer Services; requiring
52 completion of a minimum training program prior to
53 application for certification; providing application fees;
54 providing recertification requirements, including fees;
55 authorizing the department to provide certain information
56 to certain agencies; specifying limitations of

57 certification; creating s. 482.1563, F.S.; authorizing the
 58 adoption of rules by the department; amending s. 482.2401,
 59 F.S.; requiring depositing of certain fines in the Pest
 60 Control Trust Fund; providing for the use of such funds;
 61 providing an effective date.

62

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

64

65 Section 1. Section 403.9335, Florida Statutes, is created
 66 to read:

67 403.9335 Short title.--Sections 403.9335-403.9338 may be
 68 cited as the "Protection of Urban and Residential Environments
 69 and Water Act."

70 Section 2. Section 403.9336, Florida Statutes, is created
 71 to read:

72 403.9336 Legislative findings.--The Legislature finds that
 73 the model fertilizer use ordinance contained in the Florida
 74 Consumer Fertilizer Task Force Final Report to the 2008 Florida
 75 Legislature, issued January 15, 2008, as well as its
 76 incorporation of Rule 5E-1.003, Florida Administrative Code,
 77 entitled, "Labeling Requirements For Urban Turf Fertilizers,"
 78 serve to improve the quality of water in the state's water
 79 bodies.

80 Section 3. Section 403.9337, Florida Statutes, is created
 81 to read:

82 403.9337 Adoption of the Florida Friendly Fertilizer Use
 83 on Urban Landscapes Model Ordinance.--

84 (1) The department is directed to adopt by secretarial

85 order by October 1, 2008, without change the Florida Friendly
86 Fertilizer Use on Urban Landscapes Model Ordinance contained in
87 the Florida Consumer Fertilizer Task Force Final Report to the
88 2008 Florida Legislature, issued January 15, 2008.

89 (2) At least every 3 years, or as additional research or
90 other scientific information becomes available, the department,
91 in consultation with the Department of Agriculture and Consumer
92 Services, the University of Florida Institute of Food and
93 Agricultural Sciences, local governments, and other interested
94 parties, shall review the model ordinance and adopt changes as
95 necessary.

96 (3) A county or municipal government that has adopted and
97 implemented the model ordinance adopted by the department and
98 has collected site-specific data demonstrating that the model
99 ordinance is not sufficiently protective may adopt additional
100 provisions to or provisions more stringent than the model
101 ordinance provided that such government can demonstrate it meets
102 the following criteria:

103 (a) The county or municipal government has within its
104 jurisdiction all or part of a water body, or all or part of a
105 watershed that drains to all or part of a water body, which has
106 been verified as being impaired or assessed as being potentially
107 impaired for a nutrient or nutrients under state or federal
108 laws.

109 (b) The county or municipal government has demonstrated,
110 as part of a comprehensive program to address nonpoint sources
111 of nutrient pollution which is based on sound scientific
112 principals, that additional or more stringent provisions to the

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113 model ordinance are necessary to adequately address urban
114 fertilizer contributions to nonpoint source nutrient loading to
115 a water body identified in paragraph (a).

116 (4) A county or municipal government may adopt additional
117 provisions to or provisions more stringent than the model
118 ordinance if:

119 (a) The county or municipal government is a party to a
120 basin management action plan adopted pursuant to s. 403.067 that
121 requires additional or more stringent provisions than the model
122 ordinance; or

123 (b) The county or municipal government has an approved
124 municipal separate storm sewer system permit which requires
125 additional or more stringent provisions than the model
126 ordinance.

127 (5) A county or municipal government that elects to
128 establish additional or more stringent criteria than the model
129 ordinance shall consult with the department, the Department of
130 Agriculture and Consumer Services, and the University of Florida
131 Institute of Food and Agricultural Sciences in the establishment
132 of the criteria. Input received from the consulting agencies
133 shall become part of the record of the county or municipal
134 government's decision for adoption of more stringent criteria.

135 (6) A county or municipal government that adopted its own
136 fertilizer use ordinance before January 15, 2008, is exempt from
137 any requirement to adopt the model ordinance. Such government
138 shall follow the process in subsections (3), (4) and (5) in the
139 adoption of any additional or more stringent provisions.

140 Section 4. Section 403.9338, Florida Statutes, is created

141 to read:

142 403.9338 Minimum training program for limited
 143 certification for commercial fertilizer application.--

144 (1) The minimum training program for the certificate
 145 issued by the Department of Agriculture and Consumer Services
 146 pursuant to s. 482.1562 shall consist of a course that is
 147 designed, approved, and made available by the Department of
 148 Environmental Protection and the University of Florida Institute
 149 of Food and Agricultural Sciences. The course shall be based on
 150 the "Florida Green Industries Best Management Practices for
 151 Protection of Water Resources in Florida," published by the
 152 Department of Environmental Protection, and consist of a minimum
 153 of 6 contact hours of training in the following subjects:

154 (a) Nonpoint source pollution, including laws relating to
 155 such pollution, the effects of such pollution on water quality,
 156 business, the economy, and quality of life, and best management
 157 practices as both good business and environmental benefit.

158 (b) Fertilizer characteristics and selection, including
 159 physical and chemical properties; soil type, pH, temperature,
 160 and moisture effects on release rates; application rates;
 161 spreader calibration; and materials handling and spills.

162 (c) Florida turfgrass species and their characteristics,
 163 including fertilization requirements and the effects of
 164 landscape design, mowing, irrigation, shade, wear, pests,
 165 disease, cold and heat stresses on fertilizer materials, the
 166 amounts of fertilizer to be applied, and the timing of its
 167 application and, conversely, the effects of such fertilization
 168 on these cultural aspects in addition to the direct effects on

169 water quality, including nutrient pollution, erosion and
170 sedimentation, and water usage rates.

171 (d) Irrigation systems and the effects of irrigation on
172 volatilization, leaching, and runoff of fertilizer, the amount
173 of water withdrawn, and water quality; the effects of
174 aboveground or underground irrigation on plants and their
175 fertilization needs; the effects of irrigation water quality and
176 reclaimed water from that irrigation; diagnoses of irrigation
177 and fertilization problems; and the importance of proper repair
178 to maintain distribution uniformity to prevent spot leaching and
179 runoff of fertilizers resulting in more fertilizer use and more
180 pollution.

181 (e) Florida landscape plants and their characteristics,
182 including fertilization requirements and the effects of
183 landscape design, pruning, irrigation, shade, pests, disease,
184 cold and heat stresses on fertilizer materials, the amounts of
185 fertilizer to be applied, and the timing of its application and,
186 conversely, the effects of fertilization on these cultural
187 aspects in addition to direct effects on water quality.

188 (f) Pesticide licensing law, including provisions relating
189 to fertilizer-pesticide mixtures; integrated pest management,
190 environmental effects, and safety; the effects of fertilizer
191 application on pesticide use; the effects of pesticides on
192 fertilization requirements; and the prohibition on pesticide
193 application by persons certified under s. 482.1562.

194 (2) The Department of Environmental Protection shall
195 contract with the University of Florida Institute of Food and
196 Agricultural Sciences Extension to lead the training effort with

197 the primary focus on state-level operations and county-level
198 training. The Florida Green Industries Best Management Practices
199 for Protection of Water Resources in Florida training program
200 shall be co-located with the Florida Yards and Neighborhoods
201 Program under the Institute of Food and Agricultural Sciences'
202 Department of Environmental Horticulture's Florida Friendly
203 Program and the Center for Landscape Conservation and Ecology.

204 (3) The Department of Environmental Protection shall
205 provide program training coordinators through the NOAA coastal
206 training programs at the Rookery Bay National Estuarine Research
207 Reserve, the Guana-Tolomato-Matanzas National Estuarine Research
208 Reserve, and the Apalachicola National Estuarine Research
209 Reserve to conduct regional train-the-trainer classes for
210 industry professionals and corporate training staff and to
211 coordinate and support local governments, water management
212 districts, and the Institute of Food and Agricultural Sciences
213 extension training activities.

214 (4) Trainers shall be certified in the "Florida Green
215 Industries Best Management Practices for Protection of Water
216 Resources in Florida," published by the Department of
217 Environmental Protection, and have a valid trainer certificate.
218 All trainers shall satisfactorily complete a training program to
219 conduct this course as provided below, or they shall have the
220 academic credentials and instructional experience necessary for
221 teaching the subjects. Trainer criteria shall include:

222 (a) Demonstrated subject matter expertise, which includes
223 an appropriate level of technical knowledge, skills, or
224 abilities in the subjects they teach.

225 (b) Demonstrated competency in delivery techniques and
 226 methods appropriate to adult learning principles for the target
 227 audience and the learning objectives.

228 (c) Continued professional competency demonstrated by
 229 participating in continuing education, development programs, or
 230 experience related to their subject matter expertise and
 231 delivery skills.

232 (d) Periodic evaluation of instructional competence by the
 233 training manager or his or her appointee.

234 (5) The Department of Environmental Protection, in
 235 consultation with the Department of Agriculture and Consumer
 236 Services and with the Institute of Food and Agricultural
 237 Sciences, shall publish training requirements, procedures, and
 238 materials.

239 (6) Effective January 1, 2009, a trainer certificate shall
 240 be issued by the Department of Environmental Protection or the
 241 University of Florida Institute of Food and Agricultural
 242 Sciences for certified trainers. A list of qualified trainers
 243 shall be maintained and published.

244 Section 5. Subsections (6) through (27) of section
 245 482.021, Florida Statutes, are renumbered as subsections (7)
 246 through (28), respectively, present subsection (28) is
 247 renumbered as subsection (30), and new subsections (6) and (29)
 248 are added to that section to read:

249 482.021 Definitions.--For the purposes of this chapter,
 250 and unless otherwise required by the context, the term:

251 (6) "Commercial fertilizer application" means application
 252 of fertilizer for payment or other consideration to property not

253 owned by a person or firm making the application or by the
 254 employer of the applicator.

255 (29) "Urban lawnscapes" means any nonagricultural turf
 256 formed from grass or any other plant; and any shrub, bush, tree,
 257 or other plant used or intended for nonagricultural use in
 258 connection with the occupation or use of any structure. The term
 259 does not include golf courses or athletic fields.

260 Section 6. Subsection (11) is added to section 482.091,
 261 Florida Statutes, to read:

262 482.091 Employee identification cards.--

263 (11) Effective December 31, 2008, for every employee who
 264 applies fertilizer commercially to urban lawnscape pursuant to
 265 s. 482.1562, the licensee or certified operator in charge must
 266 apply for an identification card that identifies that employee
 267 as having received the training certificate specified in s.
 268 403.9338. The application for the identification card must be
 269 accompanied by the training certificate. The identification
 270 cards for such employees must be applied for, and shall be
 271 issued and used, in accordance with this section. This
 272 subsection does not apply to a certified operator who is
 273 certified in the category of lawn and commercial pest control.

274 Section 7. Paragraph (b) of subsection (2) of section
 275 482.156, Florida Statutes, is amended, and subsection (6) is
 276 added to that section, to read:

277 482.156 Limited certification for commercial landscape
 278 maintenance personnel.--

279 (2)

280 (b) To be eligible to take the examination, an applicant

281 must have completed 6 classroom hours of plant bed and
282 ornamental continuing education training approved by the
283 department ~~and provide sufficient proof, according to criteria~~
284 ~~established by department rule.~~ The department shall provide the
285 appropriate reference materials for the examination and make the
286 examination readily accessible and available to applicants at
287 least quarterly or as necessary in each county.

288 (6) Persons certified under this section shall not be
289 required to obtain the limited certificate for commercial
290 fertilizer application in order to be considered certified for
291 the purposes of implementing fertilizer best management
292 practices as adopted by the department, provided that by
293 December 31, 2008, such persons obtain the training certificate
294 specified in s. 482.1562(2)(a) prior to issuance or renewal of
295 the limited certificate for commercial landscape maintenance.

296 Section 8. Section 482.1561, Florida Statutes, is created
297 to read:

298 482.1561 Regulation of commercial fertilizer
299 application.--

300 (1) Effective December 31, 2008, any person who applies
301 fertilizer commercially to urban lawnscape, as defined in this
302 chapter, or urban turf, as defined by department rule issued
303 under chapter 576, shall:

304 (a) Hold a limited certificate for commercial fertilizer
305 application, as issued under s. 482.1562;

306 (b) Hold a limited certificate for commercial landscape
307 maintenance, as issued under s. 482.156; or

308 (c) Be under the direct supervision of a certified

309 operator in lawn and ornamental pest control, as issued under s.
 310 482.111, who is in compliance with s. 482.091(11).

311 (2) Application of fertilizer to urban lawns
 312 certified fertilizer applicator shall be in accordance with best
 313 management practices for fertilizer application as adopted by
 314 the department and the Department of Environmental Protection.

315 Section 9. Section 482.1562, Florida Statutes, is created
 316 to read:

317 482.1562 Limited certification for commercial fertilizer
 318 application.--

319 (1) The department shall establish a limited certification
 320 category for commercial fertilizer application to certify
 321 persons on the application of fertilizer to urban turf in
 322 compliance with best management practices for fertilizer
 323 application and management as adopted by the department and the
 324 Department of Environmental Protection.

325 (2) (a) A person seeking limited certification under this
 326 section must apply to the department and submit a copy of the
 327 training certificate received from the Department of
 328 Environmental Protection or the University of Florida Institute
 329 of Food and Agricultural Sciences as proof of having completed
 330 the minimum training program set forth in s. 403.9338.

331 (b) Each application must be accompanied by a registration
 332 fee set by the department, in an amount of not more than \$150 or
 333 less than \$50; however, until a rule setting this fee is adopted
 334 by the department, the fee is \$50.

335 (3) An application for recertification under this section
 336 must be made annually and be accompanied by a recertification

337 fee set by the department, in an amount of not more than \$75 or
338 less than \$25; however, until a rule setting this fee is adopted
339 by the department, the fee for recertification is \$25. After a
340 grace period not exceeding 30 calendar days following the annual
341 date that recertification is due, a late renewal charge of \$50
342 shall be assessed and must be paid in addition to the renewal
343 fee. Unless timely recertified, a certificate automatically
344 expires 180 calendar days after the anniversary recertification
345 date. Subsequent to such expiration, a certificate may be issued
346 only upon presentation of the training certificate and upon
347 payment of the certification fees due.

348 (4) The department is authorized to provide information on
349 the certification status of persons certified under this section
350 and results of inspections and investigations to local and state
351 government agencies involved in the regulation of fertilizer use
352 and management and to cooperate with these entities to more
353 efficiently regulate the use and management of fertilizer.

354 (5) Certification under this section does not authorize:

355 (a) Application of pesticides to turf or ornamentals,
356 including pesticide fertilizer mixtures;

357 (b) Operation of a pest control business; or

358 (c) Application of pesticides by unlicensed or uncertified
359 personnel under the supervision of a certified person.

360 Section 10. Section 482.1563, Florida Statutes, is created
361 to read:

362 482.1563 Rules.--The department has authority to adopt
363 rules pursuant to ss. 120.536(1) and 120.54 to implement the
364 provisions of ss. 482.1561 and 482.1562.

365 Section 11. Subsection (1) of section 482.2401, Florida
 366 Statutes, is amended, subsection (3) is renumbered as subsection
 367 (4) and amended, and a new subsection (3) is added to that
 368 section, to read:

369 482.2401 Disposition and use of revenues from fees and
 370 fines.--

371 (1) All moneys collected or received by the department
 372 under this chapter shall be deposited in the Pest Control Trust
 373 Fund and, except as provided in subsections ~~subsection~~ (3) and
 374 (4), shall be used by the department in carrying out the
 375 provisions of this chapter and in the education of the pest
 376 control industry.

377 (3) All fines collected or received for failure to comply
 378 with ss. 482.1561 and 482.1562 shall be deposited into the Pest
 379 Control Trust Fund and shall be used by the department for urban
 380 lawnscape fertilizer best management practices education.

381 ~~(4)(3)~~ All other revenues from administrative fines shall
 382 be used to support contract research or education in pest
 383 control. The department shall appoint a committee composed of
 384 pest control industry members which shall assist the department
 385 in establishing research or education priorities, in developing
 386 requests for proposals for bids, and in selecting research or
 387 education contractors from qualified bidders.

388 Section 12. This act shall take effect upon becoming a
 389 law.