

By the Committee on Agriculture; and Senators Aronberg and Baker

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1 A bill to be entitled

2 An act relating to protecting urban and residential
3 environments and water; creating s. 403.9335, F.S.;
4 providing a short title; creating s. 403.9336, F.S.;
5 providing legislative findings; creating s. 403.9337,
6 F.S.; requiring that the Department of Environmental
7 Protection adopt the "Florida Friendly Fertilizer Use on
8 Urban Landscapes Model Ordinance" on or before a specified
9 date; requiring that the department, in consultation with
10 certain entities, review the model ordinance and adopt
11 changes as necessary within specified periods; authorizing
12 a county or municipal government meeting certain criteria
13 to adopt provisions in addition to or more stringent than
14 those contained in the model ordinance; authorizing any
15 county or municipal government to adopt provisions in
16 addition to or more stringent than those contained in the
17 model ordinance under certain conditions; authorizing such
18 counties to consult with certain entities when
19 establishing such provisions; exempting certain counties
20 or municipal governments from the requirement to adopt the
21 model ordinance; creating s. 403.9338, F.S.; requiring
22 that the minimum training program for limited
23 certification for commercial fertilizer application issued
24 by the Department of Agriculture and Consumer Services be
25 designed, approved, and made available by the Department
26 of Environmental Protection and the Institute of Food and
27 Agricultural Sciences; providing training requirements;
28 requiring the Department of Environmental Protection to
29 contract with the Institute of Food and Agricultural

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30 Sciences for the purpose of leading the training effort;
31 providing for colocation of programs; requiring that the
32 Department of Environmental Protection provide training
33 coordinators for the program; providing for certain
34 regional classes; requiring certification of trainers;
35 providing criteria for persons seeking to qualify as
36 trainers; requiring the publication of certain training
37 information; requiring the issuance of the trainer
38 certificate on or before a specified date; requiring the
39 maintenance and publication of a list of qualified
40 trainers; amending s. 482.021, F.S.; providing
41 definitions; amending s. 482.091, F.S.; requiring the
42 issuance of identification cards containing certain
43 information for persons who apply fertilizer commercially
44 to urban lawnscape; requiring that such identification
45 cards be obtained and used in certain ways; providing an
46 exception; amending s. 482.156, F.S.; deleting a
47 requirement for proof of certain training requirements
48 established by the Department of Agriculture and Consumer
49 Services; providing certain exceptions for persons holding
50 the limited certificate for commercial landscape
51 maintenance; requiring such persons to receive specified
52 training on or before a specified date; creating s.
53 482.1561, F.S.; providing for the regulation of the
54 application of commercial fertilizer on urban lawnscape
55 and urban turf; requiring the certification of such
56 applicators by the department; requiring certain
57 applicators to be under the direct supervision of certain
58 certified persons; requiring that the application of such

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59 fertilizer be in compliance with best-management practices
60 adopted by the Department of Agriculture and Consumer
61 Services and the Department of Environmental Protection;
62 creating s. 482.1562, F.S.; establishing a limited
63 certification category for commercial fertilizer
64 application under the Department of Agriculture and
65 Consumer Services; requiring the completion of a minimum
66 training program before application for certification;
67 providing application fees; providing recertification
68 requirements and fees; authorizing the department to
69 provide certain information to certain agencies;
70 specifying limitations of certification; creating s.
71 482.1563, F.S.; authorizing the department to adopt rules;
72 amending s. 482.2401, F.S.; requiring the deposit of
73 moneys collected pursuant to certain fines into the Pest
74 Control Trust Fund; providing for the use of such funds;
75 providing an effective date.

76
77 Be It Enacted by the Legislature of the State of Florida:

78
79 Section 1. Section 403.9335, Florida Statutes, is created
80 to read:

81 403.9335 Short title.--Sections 403.9335-403.9338 may be
82 cited as the "Protection of Urban and Residential Environments
83 and Water Act."

84 Section 2. Section 403.9336, Florida Statutes, is created
85 to read:

86 403.9336 Legislative findings.--The Legislature finds that
87 the model fertilizer use ordinance contained in the Florida

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88 Consumer Fertilizer Task Force Final Report to the 2008 Florida
89 Legislature, issued January 15, 2008, as well as its
90 incorporation of rule 5E-1.003, Florida Administrative Code,
91 entitled "Labeling Requirements For Urban Turf Fertilizers," will
92 serve to improve the quality of water in this state's water
93 bodies.

94 Section 3. Section 403.9337, Florida Statutes, is created
95 to read:

96 403.9337 Adoption of the Florida Friendly Fertilizer Use on
97 Urban Landscapes Model Ordinance.--

98 (1) The Department of Environmental Protection is directed
99 to adopt by Secretarial Order on or before October 1, 2008, and
100 without change, the "Florida Friendly Fertilizer Use on Urban
101 Landscapes Model Ordinance" contained in the Florida Consumer
102 Fertilizer Task Force Final Report to the 2008 Florida
103 Legislature, issued January 15, 2008.

104 (2) At least every 3 years, or as additional research or
105 other scientific information becomes available, the department,
106 in consultation with the Department of Agriculture and Consumer
107 Services, the University of Florida Institute of Food and
108 Agricultural Sciences, local governments, and other interested
109 parties, shall review the model ordinance and adopt changes as
110 necessary.

111 (3) Any county or municipal government that has adopted and
112 implemented the department-adopted model ordinance, and has
113 collected data demonstrating that the model ordinance is
114 insufficiently protective of the impaired or potentially impaired
115 water body or watershed, may adopt provisions in addition to or
116 more stringent than those contained in the model ordinance if

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117 such entity demonstrates that it meets the following criteria:

118 (a) There is within the county's border all or part of a
119 water body, or all or part of a watershed that drains to all or
120 part of a water body, which has been verified as being impaired
121 or assessed as being potentially impaired for a nutrient or
122 nutrients under state or federal law; and

123 (b) The county or municipal government has demonstrated, as
124 part of a comprehensive program to address nonpoint sources of
125 nutrient pollution based on sound scientific principles, that
126 additional or more stringent provisions to the model ordinances
127 are necessary to adequately address urban fertilizer
128 contributions to nonpoint source nutrient loading to a water body
129 identified in paragraph (a).

130 (4) Any county or municipal government may adopt provisions
131 in addition to or more stringent than those contained in the
132 model ordinance if:

133 (a) The county or municipal government is a party to a
134 basin-management action plan adopted pursuant to s. 403.067
135 requiring provisions in addition to or more stringent than those
136 contained in the model ordinance; or

137 (b) The county or municipal government has an approved
138 permit for a municipal separate storm sewer system requiring
139 provisions in addition to or more stringent than those contained
140 in the model ordinance.

141 (5) Any county or municipal government electing to
142 establish provisions in addition to or more stringent than those
143 contained in the model ordinance shall consult with the
144 department, the Department of Agriculture and Consumer Services,
145 and the University of Florida Institute of Food and Agricultural

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146 Sciences when establishing such provisions. Input received from
147 the consulting agencies shall become part of the public record of
148 decision in the adoption of any such provisions.

149 (6) Any county or municipal government that has adopted its
150 own fertilizer use ordinance before January 15, 2008, is exempt
151 from any requirement to adopt the model ordinance and shall
152 follow the process in subsections (3), (4), and (5) when adopting
153 any provisions in addition to or more stringent than those
154 contained in the model ordinance.

155 Section 4. Section 403.9338, Florida Statutes, is created
156 to read:

157 403.9338 Minimum training program for limited certification
158 for commercial fertilizer application.--

159 (1) The minimum training program for the certificate issued
160 by the Department of Agriculture and Consumer Services pursuant
161 to s. 482.1562 shall consist of a course designed, approved, and
162 made available by the Department of Environmental Protection and
163 the Institute of Food and Agricultural Sciences at the University
164 of Florida. The course shall be based on the "Florida Green
165 Industries Best Management Practices for Protection of Water
166 Resources in Florida," published by the Department of
167 Environmental Protection, and shall require a minimum of 6
168 contact hours of training in the following subjects:

169 (a) Nonpoint source pollution, including laws relating to
170 such pollution, the effects of such pollution on water quality,
171 business, the economy, and quality of life, and best-management
172 practices as such practices relate to good business and
173 environmental benefits.

174 (b) Fertilizer characteristics and selection, including

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175 physical and chemical properties, soil type, pH, temperature, and
176 moisture effects on release rates, application rates, spreader
177 calibration, and handling and spills of materials.

178 (c) Florida turfgrass species and their characteristics,
179 including fertilization requirements and the effects of landscape
180 design, mowing, irrigation, shade, wear, pests, disease, cold and
181 heat stresses on fertilizer materials, the amounts of fertilizer
182 to be applied, and the timing of its application and the effects
183 of such fertilization on these cultural aspects in addition to
184 the direct effects on water quality, including nutrient
185 pollution, erosion and sedimentation, and water usage rates.

186 (d) Irrigation systems and the effects of irrigation on
187 volatilization, leaching, and runoff of fertilizer, the amount of
188 water withdrawn and water quality, the effects of aboveground or
189 underground irrigation on plants and their fertilization needs,
190 the effects of irrigation water quality and reclaimed water from
191 such irrigation, diagnoses of irrigation and fertilization
192 problems, and the importance of proper repair to maintain
193 distribution uniformity to prevent spot leaching and runoff of
194 fertilizers resulting in increased fertilizer use and pollution.

195 (e) Florida landscape plants and their characteristics,
196 including fertilization requirements and the effects of landscape
197 design, pruning, irrigation, shade, pests, disease, cold and heat
198 stresses on fertilizer materials, the amounts of fertilizer to be
199 applied, and the timing of its application and the effects of
200 fertilization on these cultural aspects in addition to direct
201 effects on water quality.

202 (f) Pesticide licensing law, including provisions relating
203 to fertilizer-pesticide mixtures, integrated pest management,

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204 environmental effects and safety, the effects of fertilizer
205 application on pesticide use, the effects of pesticides on
206 fertilization requirements, and the prohibition on pesticide
207 application by persons certified under s. 482.1562.

208 (2) The Department of Environmental Protection shall
209 contract with the University of Florida Institute of Food and
210 Agricultural Sciences Extension to lead a training effort that
211 primarily focuses on state-level operations and county-level
212 training. The Florida Green Industries Best Management Practices
213 for Protection of Water Resources in Florida training program
214 shall be colocated with the Florida Yards and Neighborhoods
215 Program under the Institute of Food and Agricultural Sciences'
216 Department of Environmental Horticulture's Florida Friendly
217 Program and the Center for Landscape Conservation and Ecology.

218 (3) The Department of Environmental Protection shall
219 provide program training coordinators through the NOAA coastal
220 training programs at the Rookery Bay National Estuarine Research
221 Reserve, the Guana-Tolomato-Matanzas National Estuarine Research
222 Reserve, and the Apalachicola National Estuarine Research Reserve
223 for the purpose of conducting regional train-the-trainer classes
224 for industry professionals and corporate training staff and
225 coordinating and supporting local governments, water management
226 districts, and the Institute of Food and Agricultural Sciences
227 extension training activities.

228 (4) Trainers shall be certified in the "Florida Green
229 Industries Best Management Practices for Protection of Water
230 Resources in Florida," published by the Department of
231 Environmental Protection, and have a valid trainer certificate.
232 All trainers must satisfactorily complete a training program to

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233 conduct courses as described in this section or have the academic
234 credentials and instructional experience necessary for teaching
235 relevant subjects. To qualify as a trainer, a person must satisfy
236 the following criteria:

237 (a) Demonstrated expertise in the subject matter, including
238 an appropriate level of technical knowledge, skills, or abilities
239 in the subjects to be taught.

240 (b) Demonstrated competency in delivery techniques and
241 methods appropriate to adult learning principles for the target
242 audience and the learning objectives, including the ability to
243 effectively present and communicate the subject matter.

244 (c) Continued professional competency, as demonstrated by
245 participation in continuing education curriculum or development
246 programs, or experience related to the subject matter to be
247 taught.

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

250 (5) The Department of Environmental Protection, in
251 consultation with the Department of Agriculture and Consumer
252 Services and the Institute of Food and Agricultural Sciences,
253 shall publish training requirements, procedures, and materials.

254 (6) Effective January 1, 2009, a certificate for certified
255 trainers shall be issued by the Department of Environmental
256 Protection or the Institute of Food and Agricultural Sciences at
257 the University of Florida. The department shall maintain and
258 publish a list of qualified trainers.

259 Section 5. Present subsections (6) through (27) of section
260 482.021, Florida Statutes, are renumbered as subsections (7)
261 through (28), respectively, present subsection (28) is renumbered

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262 as subsection (30), and new subsections (6) and (29) are added to
263 that section, to read:

264 482.021 Definitions.--For the purposes of this chapter, and
265 unless otherwise required by the context, the term:

266 (6) "Commercial fertilizer application" means application
267 of fertilizer for payment or other consideration to property not
268 owned by a person or firm making the application or the employer
269 of the applicator.

270 (29) "Urban lawnscape" means any nonagricultural turf
271 formed from grass or any other plant, and any shrub, bush, tree,
272 or other plant used or intended for nonagricultural use in
273 connection with the occupation or use of any structure. The term
274 does not include golf courses or athletic fields.

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

277 482.091 Employee identification cards.--

278 (11) Effective December 31, 2008, for every employee who
279 applies fertilizer commercially to urban lawnscape pursuant to s.
280 482.1562, the licensee or certified operator in charge must apply
281 for an identification card identifying that employee as having
282 received the training certificate specified in s. 403.9338. The
283 application for the identification card must be accompanied by
284 the training certificate. The identification cards for such
285 employees must be applied for, and shall be issued and used, in
286 accordance with this section. This subsection does not apply to a
287 certified operator who is certified in the category of lawn and
288 commercial pest control.

289 Section 7. Paragraph (b) of subsection (2) of section
290 482.156, Florida Statutes, is amended, and subsection (6) is

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291 added to that section, to read:

292 482.156 Limited certification for commercial landscape
293 maintenance personnel.--

294 (2)

295 (b) To be eligible to take the examination, an applicant
296 must have completed 6 classroom hours of plant bed and ornamental
297 continuing education training approved by the department ~~and~~
298 ~~provide sufficient proof, according to criteria established by~~
299 ~~department rule.~~ The department shall provide the appropriate
300 reference materials for the examination and make the examination
301 readily accessible and available to applicants at least quarterly
302 or as necessary in each county.

303 (6) Persons certified under this section are not required
304 to obtain the limited certificate for commercial fertilizer
305 application in order to be designated as certified for the
306 purposes of implementing fertilizer best-management practices as
307 adopted by the department if on or before December 31, 2008, such
308 persons obtain the training certificate specified in s.
309 482.1562(2)(a) before the issuance or renewal of the limited
310 certificate for commercial landscape maintenance.

311 Section 8. Section 482.1561, Florida Statutes, is created
312 to read:

313 482.1561 Regulation of commercial fertilizer application.--

314 (1) Effective December 31, 2008, any person who applies
315 fertilizer commercially to urban lawnscape, as defined in this
316 chapter, or urban turf, as defined by department rule issued
317 under chapter 576, must:

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

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

322 (c) Be under the direct supervision of a certified operator
323 in lawn and ornamental pest control, as issued under s. 482.111,
324 who is in compliance with s. 482.091(11).

325 (2) Application of fertilizer to urban lawns by a
326 certified fertilizer applicator shall be in accordance with best-
327 management practices for fertilizer application as adopted by the
328 department and the Department of Environmental Protection.

329 Section 9. Section 482.1562, Florida Statutes, is created
330 to read:

331 482.1562 Limited certification for commercial fertilizer
332 application.--

333 (1) The department shall establish a limited certification
334 category for commercial fertilizer application to certify persons
335 as qualified to apply fertilizer to urban turf in compliance with
336 best-management practices for fertilizer application and
337 management as adopted by the department and the Department of
338 Environmental Protection.

339 (2) (a) A person seeking limited certification under this
340 section must apply to the department and submit a copy of the
341 training certificate received from the Department of
342 Environmental Protection or the Institute of Food and
343 Agricultural Sciences at the University of Florida as proof of
344 completion of the minimum training program set forth in s.
345 403.9338.

346 (b) Each application must be accompanied by a registration
347 fee set by the department, in an amount less than or equal to
348 \$150 but greater than or equal to \$50. However, until a rule

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349 setting this fee is adopted by the department, the amount of such
350 fee is \$50.

351 (3) An application for recertification under this section
352 must be made annually and be accompanied by a recertification fee
353 set by the department, in an amount less than or equal to \$75 or
354 greater than or equal to \$25. However, until a rule setting this
355 fee is adopted by the department, the amount of the
356 recertification fee is \$25. After a grace period not exceeding 30
357 calendar days following the annual date that recertification is
358 due, a late renewal charge of \$50 shall be assessed and must be
359 paid in addition to the renewal fee. Unless timely recertified, a
360 certificate automatically expires 180 calendar days after the
361 recertification anniversary date. After such expiration, a
362 certificate may be issued only upon presentation of the training
363 certificate and upon payment of any certification fees due.

364 (4) The department may provide information concerning the
365 certification status of persons certified under this section and
366 results of inspections and investigations to local and state
367 government agencies involved in the regulation of fertilizer use
368 and management and may cooperate with these entities to more
369 efficiently regulate the use and management of fertilizer.

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

371 (a) Application of pesticides to turf or ornamentals,
372 including pesticide-fertilizer mixtures;

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

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

376 Section 10. Section 482.1563, Florida Statutes, is created
377 to read:

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378 482.1563 Rules.--The department may adopt rules pursuant to
379 ss. 120.536(1) and 120.54 to administer ss. 482.1561 and
380 482.1562.

381 Section 11. Subsection (1) of section 482.2401, Florida
382 Statutes, is amended, present subsection (3) is amended and
383 renumbered as subsection (4), and a new subsection (3) is added
384 to that section, to read:

385 482.2401 Disposition and use of revenues from fees and
386 fines.--

387 (1) All moneys collected or received by the department
388 under this chapter shall be deposited in the Pest Control Trust
389 Fund and, except as provided in subsections ~~subsection~~ (3) and
390 (4), shall be used by the department in carrying out the
391 provisions of this chapter and in the education of the pest
392 control industry.

393 (3) All fines collected or received for failure to comply
394 with ss. 482.1561 and 482.1562 shall be deposited into the Pest
395 Control Trust Fund and shall be used by the department for
396 education regarding urban lawnscape fertilizer best-management
397 practices.

398 (4) ~~(3)~~ All other revenues from administrative fines shall
399 be used to support contract research or education in pest
400 control. The department shall appoint a committee composed of
401 pest control industry members which shall assist the department
402 in establishing research or education priorities, in developing
403 requests for proposals for bids, and in selecting research or
404 education contractors from qualified bidders.

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