

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.; encouraging county and municipal governments to
7 adopt and enforce the Model Ordinance for Florida-Friendly
8 Fertilizer Use on Urban Landscapes of the Department of
9 Environmental Protection or an equivalent requirement as a
10 mechanism for protecting local surface water and
11 groundwater quality; requiring a county or municipal
12 government located within the watershed of an impaired
13 water body or water segment to adopt the model ordinance;
14 providing that additional or more stringent provisions may
15 be adopted under certain conditions; providing an
16 exemption for certain fertilizer use ordinances; requiring
17 certain fertilizer use ordinances to be amended; providing
18 construction; creating s. 403.9338, F.S.; providing
19 definitions for the terms "agriculture," "urban
20 landscape," and "urban landscape commercial fertilizer
21 applicator"; requiring that a commercial fertilizer
22 applicator obtain training and certification from the
23 Green Industry Best Management Practices or equivalent
24 program; requiring the Department of Environmental
25 Protection, in consultation with the Department of
26 Agriculture and Consumer Services and the Institute of
27 Food and Agricultural Sciences at the University of
28 Florida, to review and approve training programs and

29 testing materials; authorizing local governments and
 30 private entities to provide training programs; providing
 31 that certified urban landscape commercial fertilizer
 32 applicators are qualified for specified activities, exempt
 33 from additional testing requirements, and eligible to
 34 apply for certain limited certification; amending s.
 35 482.021, F.S.; providing a definition for the term "urban
 36 landscape commercial fertilizer application"; creating s.
 37 482.1562, F.S.; requiring the Department of Agriculture
 38 and Consumer Services to establish a limited certification
 39 category for urban landscape commercial fertilizer
 40 application; providing requirements for certification and
 41 recertification; providing application and renewal fees;
 42 providing limitation of such certification; authorizing
 43 the department to provide specified information to state
 44 and local governmental agencies; encouraging the
 45 department to create an online database; providing
 46 penalties for violations relating to urban landscape
 47 commercial fertilizer application; providing an effective
 48 date.

49
 50 Be It Enacted by the Legislature of the State of Florida:

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 52 Section 1. Section 403.9335, Florida Statutes, is created
 53 to read:

54 403.9335 Short title.--Sections 403.9335-403.9338 may be
 55 cited as the "Protection of Urban and Residential Environments
 56 and Water Act."

57 Section 2. Section 403.9336, Florida Statutes, is created
 58 to read:

59 403.9336 Legislative findings.--The Legislature finds that
 60 implementation of the Department of Environmental Protection's
 61 model ordinance for Florida-friendly fertilizer use on urban
 62 landscapes in the Florida-Friendly Landscape Guidance Models for
 63 Ordinances, Covenants, and Restrictions (2009) manual, which was
 64 developed consistent with the recommendations of the Florida
 65 Consumer Fertilizer Task Force and in agreement with the
 66 provisions of the labeling requirements for urban turf
 67 fertilizers in chapter 5E-1, Florida Administrative Code, will
 68 assist in protecting the quality of the state's surface water
 69 and groundwater resources. The Legislature further finds that
 70 local circumstances, including the varying types and conditions
 71 of water bodies, site-specific soils and geology, and urban or
 72 rural densities and characteristics, necessitate that additional
 73 or more stringent fertilizer-management practices may be needed
 74 at the local government level.

75 Section 3. Section 403.9337, Florida Statutes, is created
 76 to read:

77 403.9337 Adoption of the model ordinance for Florida-
 78 friendly fertilizer use on urban landscapes.--

79 (1) All county and municipal governments are encouraged to
 80 adopt and enforce the Department of Environmental Protection's
 81 model ordinance for Florida-friendly fertilizer use on urban
 82 landscapes as a mechanism for protecting local surface water and
 83 groundwater quality.

84 (2) Each county and municipal government located within

85 the watershed of a water body or water segment that is listed by
86 the department as impaired by nutrients pursuant to s. 403.067
87 shall adopt the provisions of the department's model ordinance
88 for Florida-friendly fertilizer use on urban landscapes. A
89 county or municipal government may adopt additional or more
90 stringent provisions than the model ordinance if the following
91 criteria are met:

92 (a) The county or municipal government demonstrates, as
93 part of a comprehensive program to address nonpoint sources of
94 nutrient pollution that is science-based and economically and
95 technically feasible, that additional or more stringent
96 provisions are necessary to adequately address urban fertilizer
97 contributions to nonpoint source nutrient loading to a water
98 body.

99 (b) The county or municipal government documents
100 consideration of all relevant scientific information, including
101 input from the Department of Environmental Protection, the
102 Department of Agriculture and Consumer Services, and the
103 Institute of Food and Agricultural Sciences at the University of
104 Florida, if provided, on the need for additional or more
105 stringent provisions to address fertilizer use as a contributor
106 to water quality degradation. All documentation shall be made
107 part of the public record prior to adoption of additional or
108 more stringent criteria.

109 (3) Any county or municipal government that adopted its
110 own fertilizer use ordinance before January 1, 2009, is exempt
111 from the provisions of this section. A county or municipal
112 government that adopted or amended fertilizer use ordinances on

113 or after January 1, 2009, shall adopt the provisions in the most
 114 recent version of the model fertilizer ordinance and shall be
 115 subject to the provisions of subsections (1) and (2).

116 (4) This section does not regulate the use of fertilizer
 117 on farm operations as defined in s. 823.14 or on lands
 118 classified as agricultural lands pursuant to s. 193.461.

119 Section 4. Section 403.9338, Florida Statutes, is created
 120 to read:

121 403.9338 Urban landscape commercial fertilizer applicator
 122 certification.--

123 (1) As used in this section, the term:

124 (a) "Agriculture" has the same meaning as in s. 570.02.

125 (b) "Urban landscape" means pervious nonagricultural areas
 126 on residential, commercial, industrial, institutional, highway
 127 right-of-way, or other urban lands that are planted with turf or
 128 horticultural plants.

129 (c) "Urban landscape commercial fertilizer applicator"
 130 means a person who applies fertilizer for payment or other
 131 consideration to property with urban landscaping that is not
 132 owned by the applicator.

133 (2) No later than January 1, 2014, an urban landscape
 134 commercial fertilizer applicator must obtain a certificate
 135 demonstrating satisfactory completion of the Green Industry Best
 136 Management Practices training program or an equivalent program
 137 that is cooperatively implemented by the Department of
 138 Environmental Protection and the Institute of Food and
 139 Agricultural Sciences at the University of Florida.

140 (3) The Department of Environmental Protection, in

141 consultation with the Department of Agriculture and Consumer
 142 Services and the Institute of Food and Agricultural Sciences at
 143 the University of Florida, shall approve training programs and
 144 testing materials that are equivalent to or more comprehensive
 145 than the Green Industry Best Management Practices training
 146 program. Training and testing programs of county or municipal
 147 governments or private entities shall be eligible to provide
 148 equivalent training. Such programs shall be subject to review
 149 and approval when significant changes are made to the programs.
 150 Existing approved training programs and testing materials must
 151 be reapproved by July 1, 2010.

152 (4) After receiving a certificate demonstrating successful
 153 completion of a program pursuant to subsection (2), an urban
 154 landscape commercial fertilizer applicator may apply to the
 155 Department of Agriculture and Consumer Services to receive a
 156 limited certification for urban landscape commercial fertilizer
 157 application pursuant to s. 482.1562.

158 (5) Certification under this section qualifies urban
 159 landscape commercial fertilizer applicators to apply fertilizer
 160 to urban landscapes throughout the state. Urban landscape
 161 commercial fertilizer applicators possessing a limited
 162 certification for urban commercial fertilizer application are
 163 not subject to additional testing by county or municipal
 164 governments.

165 Section 5. Present subsection (28) of section 482.021,
 166 Florida Statutes, is renumbered as subsection (29), and a new
 167 subsection (28) is added to that section to read:

168 482.021 Definitions.--For the purposes of this chapter,

169 and unless otherwise required by the context, the term:

170 (28) "Urban landscape commercial fertilizer application"
171 means an application of fertilizer by an urban landscape
172 fertilizer applicator to an urban landscape as defined in s.
173 403.9338(1). Urban landscape does not include agricultural
174 areas as defined in s. 482.021(1).

175 Section 6. Section 482.1562, Florida Statutes, is created
176 to read:

177 482.1562 Limited certification for urban landscape
178 commercial fertilizer application.--

179 (1) The department shall establish a limited certification
180 category for urban landscape commercial fertilizer application
181 as defined in s. 482.021(28) and may adopt rules to implement
182 the provisions of this section.

183 (2) A person seeking limited certification under this
184 section must provide the urban landscape commercial fertilizer
185 applicator training certificate issued pursuant to s. 403.9338.

186 (3) An application for certification under this section
187 must be accompanied by a fee set by rule of the department, in
188 an amount of not more than \$75 or less than \$25. Until such fee
189 is established, the application fee for certification shall be
190 \$25. Unless timely recertified, a certificate issued under this
191 section automatically expires 1 year after the date of issuance.

192 (4) An application for recertification under this section
193 must be made at least 90 calendar days prior to the expiration
194 date and be accompanied by a recertification fee set by rule of
195 the department, in an amount of not more than \$75 or less than
196 \$25. Until such fee is established, the application fee for

197 recertification shall be \$25. The application must also be
 198 accompanied by proof of having completed 4 classroom hours of
 199 acceptable continuing education, at least 2 hours of which shall
 200 be related to fertilizer best management practices. After a
 201 grace period not exceeding 30 calendar days after the date that
 202 recertification is due, a late renewal charge of \$50 per month
 203 shall be assessed and must be paid in addition to the renewal
 204 fee. Unless timely recertified, a certificate automatically
 205 expires 90 calendar days after the anniversary recertification
 206 date. Subsequent to such expiration, a certificate may be issued
 207 only upon meeting the requirements of subsection (2).

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

209 (a) Application of pesticides to turf or ornamental
 210 plants, including pesticide fertilizer mixtures;

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

212 (c) The application of pesticides or fertilizers by
 213 unlicensed or uncertified personnel under the supervision of the
 214 certified person.

215 (6) (a) The department is authorized to provide information
 216 on the certification status of persons certified under this
 217 section to other local and state governmental agencies.

218 (b) The department is encouraged to create and maintain a
 219 list of all certified urban landscape fertilizer applicators in
 220 an electronic database accessible by the public via the
 221 Internet.

222 (7) It is unlawful to apply fertilizer to urban landscape
 223 except as provided in this chapter. A person who violates any
 224 provision of this chapter or any rules adopted pursuant to this

CS/HB 1515

2009

225 | chapter commits a misdemeanor of the second degree, punishable
226 | as provided in s. 775.082 or s. 775.083.

227 | Section 7. This act shall take effect July 1, 2009.