

1 A bill to be entitled
2 An act relating to protecting urban and residential
3 environments and water; amending s. 373.62, F.S.; revising
4 requirements relating to automatic landscape irrigation
5 systems; requiring licensed contractors who perform work
6 on automatic landscape irrigation systems to inspect such
7 systems for compliance with specified requirements and
8 ensure that such systems are in compliance before
9 completing other work on the systems; requiring the
10 Department of Environmental Protection to create a model
11 ordinance and local governments to adopt the ordinance;
12 exempting counties having more stringent requirements from
13 adopting the model ordinance; providing penalty
14 requirements for such ordinance; providing for the
15 disposition of funds raised through penalties imposed;
16 providing a definition of the term "licensed contractor"
17 to include certain locally licensed contractors; creating
18 s. 403.9335, F.S.; providing a short title; creating s.
19 403.9336, F.S.; providing legislative findings; creating
20 s. 403.9337, F.S.; providing definitions; creating s.
21 403.9338, F.S.; encouraging county and municipal
22 governments to adopt and enforce the model ordinance for
23 Florida-friendly fertilizer use on urban landscapes of the
24 Department of Environmental Protection or an equivalent
25 requirement as a mechanism for protecting local surface
26 water and groundwater quality; requiring a local
27 government located within the watershed of an impaired
28 water body or water segment to adopt the model ordinance;

29 providing that additional or more stringent provisions may
30 be adopted under certain conditions; providing an
31 exemption for certain fertilizer use ordinances; requiring
32 certain fertilizer use ordinances to be amended; providing
33 construction; creating s. 403.9339, F.S.; requiring the
34 Department of Environmental Protection, cooperatively with
35 the Institute of Food and Agricultural Sciences at the
36 University of Florida, to provide, review, and approve
37 urban landscape best management practices training and
38 testing programs; authorizing the department to issue
39 certain training certificates; authorizing local
40 governments and private entities to provide training and
41 testing programs; providing that certified urban landscape
42 commercial fertilizer applicators are qualified for
43 specified activities, exempt from additional testing
44 requirements, and eligible to apply for certain limited
45 certification; amending s. 482.021, F.S.; providing a
46 definition; creating s. 482.1562, F.S.; requiring the
47 Department of Agriculture and Consumer Services to
48 establish a limited certification category for urban
49 landscape commercial fertilizer application; providing
50 requirements for certification and recertification;
51 providing application and renewal fees; providing a
52 limitation for such certification; authorizing the
53 department to provide specified information to state and
54 local governmental agencies; encouraging the department to
55 create an online database; requiring urban landscape
56 commercial fertilizer applicators to obtain limited

57 certification by a specified date; providing an exemption;
 58 providing an effective date.

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

62 Section 1. Section 373.62, Florida Statutes, is amended to
 63 read:

64 373.62 Water conservation; automatic landscape irrigation
 65 ~~sprinkler~~ systems.--

66 (1) Any person who operates ~~purchases and installs~~ an
 67 automatic landscape irrigation ~~lawn sprinkler~~ system after May
 68 1, 1991, shall properly install, ~~and must maintain,~~ and operate
 69 technology, ~~a rain sensor device or switch~~ that inhibits or
 70 interrupts operation of ~~will override~~ the irrigation cycle of
 71 ~~the sprinkler system~~ during periods of sufficient moisture when
 72 ~~adequate rainfall has occurred.~~

73 (2) A licensed contractor who performs work on an
 74 automatic landscape irrigation system shall test for the correct
 75 operation of each inhibiting or interrupting device or switch on
 76 the system. If such devices or switches are not installed in the
 77 system or are not in proper operating condition, the contractor
 78 shall install new devices or switches or repair existing devices
 79 or switches and confirm that each device or switch is in proper
 80 operating condition before completing any other work on the
 81 system.

82 (3) The Department of Environmental Protection shall
 83 create a model ordinance by January 15, 2010, that may be
 84 adopted and enforced by local governments. Such ordinance shall,

85 at a minimum, provide:

86 (a) Penalties for operators of automatic landscape
87 irrigation systems who do properly install and maintain the
88 required devices or switches. The minimum penalty shall be \$50
89 for a first offense, \$100 for a second offense, and \$250 for a
90 third or subsequent offense.

91 (b) A requirement that licensed contractors report
92 automatic landscape irrigation systems that are not in
93 compliance with this section to the appropriate authority.

94 (c) Penalties for licensed contractors who do not comply
95 with this section. The minimum penalty shall be \$50 for a first
96 offense, \$100 for a second offense, and \$250 for a third or
97 subsequent offense.

98
99 Regular maintenance and replacement of worn or broken technology
100 that interrupts or inhibits the operation of an automatic
101 landscape irrigation system is not a violation of this section
102 if such repairs are conducted within a reasonable time.

103 (4) Local governments shall adopt the model ordinance by
104 October 1, 2010. Local governments that impose requirements that
105 are more stringent than the minimum requirements of the model
106 ordinance are exempt from adopting the model ordinance.

107 (5) Funds generated by penalties imposed under the
108 ordinance shall be used by local governments for the
109 administration and enforcement of this section and to further
110 water-conservation activities.

111 (6) For purposes of this section, the term "licensed
112 contractor" includes an individual who holds a specific

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113 irrigation contractor's license issued by a county.

114 Section 2. Section 403.9335, Florida Statutes, is created
115 to read:

116 403.9335 Short title.--Sections 403.9335-403.9339 may be
117 cited as the "Protection of Urban and Residential Environments
118 and Water Act."

119 Section 3. Section 403.9336, Florida Statutes, is created
120 to read:

121 403.9336 Legislative findings.--The Legislature finds that
122 implementation of the Department of Environmental Protection's
123 model ordinance for Florida-friendly fertilizer use on urban
124 landscapes published in the Florida-Friendly Landscape Guidance
125 Models for Ordinances, Covenants, and Restrictions (2009)
126 manual, which was developed with the recommendations of the
127 Florida Consumer Fertilizer Task Force and in agreement with the
128 provisions of the labeling requirements for urban turf
129 fertilizers in chapter 5E-1, Florida Administrative Code, will
130 assist in protecting the quality of surface water and
131 groundwater resources of this state. The Legislature further
132 finds that local circumstances, including the varying types and
133 conditions of water bodies, site-specific soils and geology, and
134 urban or rural densities and characteristics, may require local
135 governments to use additional or more stringent fertilizer-
136 management practices.

137 Section 4. Section 403.9337, Florida Statutes, is created
138 to read:

139 403.9337 Definitions.--As used in ss. 403.9335-403.9339,
140 the term:

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141 (1) "Department" means the Department of Environmental
 142 Protection.

143 (2) "Institute" means the Institute of Food and
 144 Agricultural Sciences at the University of Florida.

145 (3) "Local government" means a county or municipality.

146 (4) "Urban landscape" means pervious areas on residential,
 147 commercial, industrial, institutional, highway rights-of-way, or
 148 other lands not used for agriculture that are planted with turf
 149 or horticultural plants. For purposes of this subsection,
 150 "agriculture" has the same meaning as in s. 570.02.

151 (5) "Urban landscape commercial fertilizer applicator"
 152 means a person who applies fertilizer for payment or other
 153 consideration to property with an urban landscape that is not
 154 owned by the applicator.

155 Section 5. Section 403.9338, Florida Statutes, is created
 156 to read:

157 403.9338 Adoption of the model ordinance for Florida-
 158 friendly fertilizer use on urban landscapes.--

159 (1) All local governments are encouraged to adopt and
 160 enforce the department's model ordinance for Florida-friendly
 161 fertilizer use on urban landscapes as a mechanism for protecting
 162 local surface water and groundwater quality.

163 (2) Each local government located within the watershed of
 164 a water body or water segment that is listed by the department
 165 as impaired by nutrients pursuant to s. 403.067 shall adopt, at
 166 a minimum, the department's model ordinance for Florida-friendly
 167 fertilizer use on urban landscapes. A local government may adopt
 168 additional or more stringent standards than the model ordinance

169 if the following criteria are met:

170 (a) The local government demonstrates, as part of a
 171 comprehensive program to address nonpoint sources of nutrient
 172 pollution that is science-based and economically and technically
 173 feasible, that additional or more stringent standards are
 174 necessary to adequately address urban fertilizer contributions
 175 to nonpoint source nutrient loading to a water body.

176 (b) The local government documents consideration of all
 177 relevant scientific information, including input from the
 178 department and the Department of Agriculture and Consumer
 179 Services, if provided, on the need for additional or more
 180 stringent standards to address fertilizer use as a contributor
 181 to water quality degradation. All documentation shall be made
 182 part of the public record before adopting additional or more
 183 stringent standards.

184 (3) Any local government that adopted its own fertilizer
 185 use ordinance before January 1, 2009, is exempt from the
 186 provisions of this section. Ordinances adopted or amended on or
 187 after January 1, 2009, must include the provisions in the most
 188 recent version of the model fertilizer ordinance and are subject
 189 to the provisions of subsections (1) and (2).

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

193 Section 6. Section 403.9339, Florida Statutes, is created
 194 to read:

195 403.9339 Urban landscape commercial fertilizer applicator
 196 certification.--

197 (1) The department, working cooperatively with the
198 institute, shall provide urban landscape best management
199 practices training and testing throughout the state. The
200 department may issue a certificate of training to a person who
201 has satisfactorily completed the training program.

202 (2) The department, in consultation with the institute and
203 the Department of Agriculture and Consumer Services, shall
204 approve training and testing programs that are equivalent to or
205 more comprehensive than those provided by the department
206 pursuant to subsection (1). Local governments or private
207 entities that have training programs approved by the department
208 are eligible to provide training and testing programs. Such
209 programs are subject to review and approval by the department if
210 significant changes are proposed to be made to either program.
211 Existing approved programs must be reapproved no later than July
212 1, 2010.

213 (3) (a) After receiving a certificate of training
214 demonstrating successful completion of the department's urban
215 landscape best management practices training program or an
216 equivalent program pursuant to subsection (2), an urban
217 landscape commercial fertilizer applicator may apply to the
218 Department of Agriculture and Consumer Services to receive a
219 limited certification for urban landscape commercial fertilizer
220 application pursuant to s. 482.1562.

221 (b) The limited certification issued by the Department of
222 Agriculture and Consumer Services qualifies an urban landscape
223 commercial fertilizer applicator to apply fertilizer to urban
224 landscapes throughout the state.

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225 (c) Urban landscape commercial fertilizer applicators
226 possessing a limited certification for urban commercial
227 fertilizer application are not subject to additional local
228 testing.

229 Section 7. Present subsection (28) of section 482.021,
230 Florida Statutes, is renumbered as subsection (29), and a new
231 subsection (28) is added to that section to read:

232 482.021 Definitions.--For the purposes of this chapter,
233 and unless otherwise required by the context, the term:

234 (28) "Urban landscape commercial fertilizer application"
235 means an application of fertilizer by an urban landscape
236 fertilizer applicator to an urban landscape as defined in s.
237 403.9337(4).

238 Section 8. Section 482.1562, Florida Statutes, is created
239 to read:

240 482.1562 Limited certification for urban landscape
241 commercial fertilizer application.--

242 (1) To provide a means of documenting and assuring
243 compliance with acceptable best management practices for
244 fertilizer application to urban landscapes, the department shall
245 establish a limited certification category for urban landscape
246 commercial fertilizer application as defined in s. 482.021(28)
247 and may adopt rules to implement the procedures and requirements
248 of this section.

249 (2) A person seeking limited certification under this
250 section shall provide the department with a copy of the urban
251 landscape commercial fertilizer applicator training certificate
252 issued pursuant to s. 403.9339.

253 (3) An application for certification under this section
254 must be accompanied by a fee set by the department, in an amount
255 of not more than \$75 or less than \$25; however, until a rule
256 setting the fee is adopted by the department, the fee for
257 certification is \$25.

258 (4) (a) 1. A certification issued under this section shall
259 expire 4 years after the date of issuance. An application for
260 recertification under this section must be made at least 90
261 calendar days before the anniversary date of the current
262 certification and must be accompanied by a recertification fee
263 set by the department, in an amount of not more than \$75 or less
264 than \$25; however, until a rule setting the fee is adopted by
265 the department, the fee for recertification is \$25.

266 2. After a grace period not exceeding 30 calendar days
267 after the date the recertification application is due pursuant
268 to subparagraph (a)1., a late renewal penalty of \$50 shall be
269 assessed each month and must be paid in addition to the
270 recertification fee.

271 (b) An application for recertification must be accompanied
272 by proof that the applicant has completed 4 classroom hours of
273 acceptable continuing education, at least 2 hours of which shall
274 include fertilizer best management practices.

275 (c) Unless timely recertified, a certificate automatically
276 expires 90 calendar days after the anniversary date of the
277 recertification. After a certificate expires, a certificate may
278 be renewed only if the person complies with all conditions for
279 recertification.

280 (5) Certification under this section does not authorize a
 281 person to:

282 (a) Apply pesticides to turf or ornamental plants,
 283 including pesticide fertilizer mixtures;

284 (b) Operate a pest control business; or

285 (c) Employ unlicensed or uncertified personnel to apply
 286 pesticides or fertilizers under the supervision of the certified
 287 person.

288 (6) The department may provide information on the
 289 certification status of persons certified under this section to
 290 other local and state governmental agencies. The department is
 291 encouraged to create an online database listing all certified
 292 urban landscape fertilizer applicators.

293 (7) By January 1 of each year, beginning January 1, 2014,
 294 an urban landscape commercial fertilizer applicator must obtain
 295 a limited certification under this section in order to apply
 296 fertilizer to urban landscapes.

297 (8) (a) Yard workers who apply fertilizer to individual
 298 residential properties using only fertilizer and equipment
 299 supplied by the residential property owner or resident are
 300 exempt from the requirements of this section.

301 (b) Persons who apply fertilizer to urban landscapes using
 302 fertilizer or equipment not supplied by the individual
 303 residential property owner or resident to which the application
 304 is made are not exempt from the requirements of this section.

305 Section 9. This act shall take effect July 1, 2009.