

1 A bill to be entitled
2 An act relating to the Department of Agriculture and
3 Consumer Services; amending s. 482.2401, F.S.; replacing a
4 requirement that the department use all revenues from
5 certain administrative fines to support research or
6 education in pest control with an authorization to use
7 such available revenues for those purposes; amending s.
8 487.041, F.S.; establishing supplemental biennial
9 registration fees for certain brands of pesticide;
10 requiring the department to adopt rules publishing a list
11 of active ingredients contained in pesticides for which
12 the supplemental fee is required; providing for
13 retroactive assessment of the supplemental fees; providing
14 for use of the revenues collected from the fees; providing
15 for retroactive application; creating s. 531.56, F.S.;
16 requiring a permit for use of a weighing or measuring
17 device for commercial purposes; providing requirements for
18 the issuance of permits; establishing additional
19 requirements applicable to a permitted device after a
20 change in ownership; providing for expiration of permits;
21 requiring annual renewal of permits; requiring late fees
22 under certain circumstances; creating s. 531.57, F.S.;
23 exempting certain devices from permitting requirements;
24 creating s. 531.58, F.S.; requiring permit fees;
25 specifying maximum fees; providing for deposit,
26 appropriation, and use of funds; creating s. 531.59, F.S.;
27 authorizing the department to suspend or revoke permits
28 under certain circumstances; creating s. 531.60, F.S.;

29 prohibiting the department from testing a noncommercial
 30 device unless a permit is issued for the device; creating
 31 s. 531.61, F.S.; providing for device application forms,
 32 permits, certificates, and identification tags or
 33 stickers; creating s. 531.62, F.S.; prohibiting the
 34 unpermitted use of commercial weighing and measuring
 35 devices; providing penalties; amending ss. 576.021 and
 36 576.045, F.S.; revising fees for the registration of
 37 specialty fertilizers; amending s. 578.08, F.S.; revising
 38 fees for the registration of seed dealers; amending ss.
 39 589.08 and 589.081, F.S.; limiting the use of part of the
 40 gross receipts from certain state forests for schools and
 41 other purposes to counties that are fiscally constrained;
 42 providing effective dates.

43

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

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46 Section 1. Subsection (3) of section 482.2401, Florida
 47 Statutes, is amended to read:

48 482.2401 Disposition and use of revenues from fees and
 49 fines.--

50 (3) The department may use ~~All~~ revenues from
 51 administrative fines ~~shall be used~~ to support contract research
 52 or education in pest control. If revenues are available to
 53 support such research or education, the department shall appoint
 54 a committee composed of pest control industry members which
 55 shall assist the department in establishing research or
 56 education priorities, in developing requests for proposals for

57 bids, and in selecting research or education contractors from
 58 qualified bidders.

59 Section 2. Effective upon this act becoming a law and
 60 retroactive to January 1, 2009, subsections (1) and (2) of
 61 section 487.041, Florida Statutes, as amended by section 14 of
 62 chapter 2009-20, Laws of Florida, are amended to read:

63 487.041 Registration.--

64 (1)(a) Effective January 1, 2009, each brand of pesticide,
 65 as defined in s. 487.021, which is distributed, sold, or offered
 66 for sale, except as provided in this section, within this state
 67 or delivered for transportation or transported in intrastate
 68 commerce or between points within this state through any point
 69 outside this state must be registered in the office of the
 70 department, and such registration shall be renewed biennially.
 71 Emergency exemptions from registration may be authorized in
 72 accordance with the rules of the department. The registrant
 73 shall file with the department a statement including:

74 1. The name, business mailing address, and street address
 75 of the registrant.

76 2. The name of the brand of pesticide.

77 3. An ingredient statement and a complete copy of the
 78 labeling accompanying the brand of the pesticide, which must
 79 conform to the registration, and a statement of all claims to be
 80 made for it, including directions for use and a guaranteed
 81 analysis showing the names and percentages by weight of each
 82 active ingredient, the total percentage of inert ingredients,
 83 and the names and percentages by weight of each "added
 84 ingredient."

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85 (b) Effective January 1, 2009, for the purpose of
86 defraying expenses of the department in connection with carrying
87 out the provisions of this part, each registrant ~~person~~ shall
88 pay a biennial registration fee for each registered brand of
89 pesticide. The registration of each brand of pesticide shall
90 cover a designated 2-year period beginning on January 1 of each
91 odd-numbered year and expiring on December 31 of the following
92 year.

93 (c) Each registration issued by the department to a
94 registrant for a period beginning in an odd-numbered year shall
95 be assessed a fee of \$700 per brand of pesticide and a fee of
96 \$200 for each special local need label and experimental use
97 permit, and the registration shall expire on December 31 of the
98 following year. Each registration issued by the department to a
99 registrant for a period beginning in an even-numbered year shall
100 be assessed a fee of \$350 per brand of pesticide and fee of \$100
101 for each special local need label and experimental use permit,
102 and the registration shall expire on December 31 of that year.

103 (d)1. Effective January 1, 2009, in addition to the fees
104 assessed pursuant to paragraphs (b) and (c), for the purpose of
105 defraying the expenses of the department for testing pesticides
106 for food safety, each registrant shall pay a supplemental
107 biennial registration fee for each registered brand of pesticide
108 that contains an active ingredient for which the United States
109 Environmental Protection Agency has established a food tolerance
110 limit in 40 C.F.R. part 180. The department shall biennially
111 publish by rule a list of the pesticide active ingredients for
112 which a brand of pesticide is subject to the supplemental

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113 registration fee.

114 2. Each registration issued by the department to a
115 registrant for a period beginning in an odd-numbered year shall
116 be assessed a supplemental registration fee of \$630 per brand of
117 pesticide that is subject to the fee pursuant to subparagraph 1.
118 Each registration issued by the department to a registrant for a
119 period beginning in an even-numbered year shall be assessed a
120 supplemental registration fee of \$315 per brand of pesticide
121 that is subject to the fee pursuant to subparagraph 1. The
122 department shall retroactively assess the supplemental
123 registration fee for each brand of pesticide that registered on
124 or after January 1, 2009, and that is subject to the fee
125 pursuant to subparagraph 1.

126 (e) ~~(d)~~ All revenues collected, less those costs determined
127 by the department to be nonrecurring or one-time costs, shall be
128 deferred over the 2-year registration period, deposited in the
129 General Inspection Trust Fund, and used by the department in
130 carrying out the provisions of this chapter. Revenues collected
131 from the supplemental registration fee may also be used by the
132 department for testing pesticides for food safety.

133 (f) ~~(e)~~ If the renewal of a brand of pesticide, including
134 the special local need label and experimental use permit, is not
135 filed by January 31 of the renewal year, an additional fee of
136 \$25 per brand of pesticide shall be assessed per month and added
137 to the original fee. This additional fee may not exceed \$250 per
138 brand of pesticide. The additional fee must be paid by the
139 registrant before the renewal certificate for the registration
140 of the brand of pesticide is issued. The additional fee shall be

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141 deposited into the General Inspection Trust Fund.

142 (g)~~(f)~~ This subsection does not apply to distributors or
143 retail dealers selling brands of pesticide if such brands of
144 pesticide are registered by another person.

145 (2) The department shall adopt rules governing the
146 procedures for the registration of a brand of pesticide, ~~and~~ for
147 the review of data submitted by an applicant for registration of
148 the brand of pesticide, and for biennially publishing the list
149 of active ingredients for which a brand of pesticide is subject
150 to the supplemental registration fee pursuant to subparagraph

151 (1) (d) 1. The department shall determine whether the brand of
152 pesticide should be registered, registered with conditions, or
153 tested under field conditions in this state. The department
154 shall determine whether each request for registration of a brand
155 of pesticide meets the requirements of current state and federal
156 law. The department, whenever it deems it necessary in the
157 administration of this part, may require the manufacturer or
158 registrant to submit the complete formula, quantities shipped
159 into or manufactured in the state for distribution and sale,
160 evidence of the efficacy and the safety of any pesticide, and
161 other relevant data. The department may review and evaluate a
162 registered pesticide if new information is made available that
163 indicates that use of the pesticide has caused an unreasonable
164 adverse effect on public health or the environment. Such review
165 shall be conducted upon the request of the State Surgeon General
166 in the event of an unreasonable adverse effect on public health
167 or the Secretary of Environmental Protection in the event of an
168 unreasonable adverse effect on the environment. Such review may

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169 result in modifications, revocation, cancellation, or suspension
170 of the registration of a brand of pesticide. The department, for
171 reasons of adulteration, misbranding, or other good cause, may
172 refuse or revoke the registration of the brand of any pesticide
173 after notice to the applicant or registrant giving the reason
174 for the decision. The applicant may then request a hearing,
175 pursuant to chapter 120, on the intention of the department to
176 refuse or revoke registration, and, upon his or her failure to
177 do so, the refusal or revocation shall become final without
178 further procedure. The registration of a brand of pesticide may
179 not be construed as a defense for the commission of any offense
180 prohibited under this part.

181 Section 3. Section 531.56, Florida Statutes, is created to
182 read:

183 531.56 Commercial weighing and measuring devices; permits;
184 renewals; late fees.--

185 (1) (a) A person may not use any weighing or measuring
186 device in this state for commercial purposes as defined by
187 department rule if a permit fee is established for the device in
188 s. 531.58 unless the device is exempt from permitting under s.
189 531.57 or the applicable permit fee is paid and a valid permit
190 is issued by the department for the device.

191 (b) A weighing or measuring device permit issued by the
192 department pursuant to this section and ss. 531.58-531.62
193 applies only to the specific device for which the permit is
194 issued. However, the department may allow a permit to apply to a
195 replacement for an original device. The department may include
196 multiple devices on a single permit but must require that the

197 applicable permit fees be paid for the devices in accordance
 198 with s. 531.58.

199 (2) If ownership of a permitted device changes, the
 200 permit:

201 (a) Transfers to the new owner and remains effective until
 202 the permit's original expiration date, if the device remains at
 203 the same location. The new owner must notify the department in
 204 the format prescribed by the department within 30 calendar days
 205 after a change in ownership. The department shall issue an
 206 updated replacement permit if needed.

207 (b) Expires if the device is moved to a new location. The
 208 new owner must apply for a new permit.

209 (3) A weighing or measuring device permit expires 1 year
 210 after the date of issuance and must be renewed annually. If an
 211 application for renewal of a permit is not received by the
 212 department within 30 days after its due date, the applicant must
 213 pay a late fee set by the department not to exceed \$100 in
 214 addition to the permit fee before the department may renew the
 215 permit.

216 Section 4. Section 531.57, Florida Statutes, is created to
 217 read:

218 531.57 Exemptions from permitting.--Sections 531.56-531.62
 219 do not apply to a commercial weighing or measuring device, if
 220 any of the following apply:

221 (1) The device is a taximeter licensed, permitted, or
 222 registered by a weights and measures official appointed by a
 223 county or municipality and is tested for accuracy and compliance

224 with state standards by the official in cooperation with the
 225 state as authorized in s. 531.421.

226 (2) The device is used exclusively for weighing railroad
 227 cars and is tested for accuracy and compliance with state
 228 standards by a private testing agency.

229 (3) The device is used exclusively for measuring petroleum
 230 products subject to the inspection fee under s. 525.09.

231 Section 5. Section 531.58, Florida Statutes, is created to
 232 read:

233 531.58 Permit fees; deposit and use of moneys.--

234 (1) An application for a weighing or measuring device
 235 permit must be accompanied by the applicable permit fees set by
 236 the department. The fees charged for a permit shall be based on
 237 the total number of weighing or measuring devices included in
 238 the permit for use at any time during the period covered by the
 239 permit.

240 (2) The department shall set the permit fees in the
 241 amounts necessary to defray the costs of administering and
 242 enforcing this chapter but not to exceed the following amounts:

243 (a) Weighing devices.--For weighing devices, the permit
 244 fees shall be based on the manufacturer's rated capacity or the
 245 device's design and use but may not exceed the following
 246 amounts:

247 1. For weighing devices whose capacity does not exceed 100
 248 pounds or the metric equivalent, the permit fees may not exceed
 249 the following amounts per retail establishment:

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<u>Number of devices in a single retail establishment:</u>	<u>Maximum fee per retail establishment:</u>
251 <u>1 to 5</u>	<u>\$75</u>
252 <u>6 to 10</u>	<u>\$175</u>
253 <u>11 to 30</u>	<u>\$250</u>
254 <u>More than 30</u>	<u>\$500</u>

255
 256 2. For weighing devices whose capacity exceeds 100 pounds
 257 or the metric equivalent, the permit fees may not exceed the
 258 following amounts per device:

<u>Manufacturer's rated capacity:</u>	<u>Maximum fee per device:</u>
260 <u>At least 100 pounds but does not exceed 5,000</u> <u>pounds or the metric equivalent.</u>	<u>\$200</u>
261 <u>Exceeds 5,000 pounds but does not exceed 20,000</u> <u>pounds or the metric equivalent</u>	<u>\$300</u>
262 <u>Exceeds 20,000 pounds or the</u> <u>metric equivalent</u>	<u>\$400</u>

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Wheel load weighers \$35

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Static railroad track scales \$1,000

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Belt conveyor scales \$500

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In-motion railroad track scales \$1,000

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(b) Measuring devices.--For measuring devices, the permit fees may not exceed the following amounts per device:

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1. For a mass flow meter whose maximum flow rate does not exceed 150 pounds or the metric equivalent per minute, \$100.

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2. For a mass flow meter whose maximum flow rate exceeds 150 pounds or the metric equivalent per minute, \$500.

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3. For a volumetric flow meter whose maximum flow rate does not exceed 20 gallons or the metric equivalent per minute, \$50.

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4. For a volumetric flow meter whose maximum flow rate exceeds 20 gallons or the metric equivalent per minute, \$100.

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5. For a tank whose capacity is less than 500 gallons or the metric equivalent when used as a measure container with or without gage rods or markers, \$100.

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6. For a tank whose capacity is 500 or more gallons or the metric equivalent when used as a measure container with or without gage rods or markers, \$200.

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7. For a taximeter, \$50.

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8. For a grain moisture meter, \$25.

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9. For a multiple dimension measuring device, \$100.

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288 (3) All moneys received by the department pursuant to ss.
 289 531.56-531.62 shall be deposited in the General Inspection Trust
 290 Fund, are continuously appropriated to the department, and shall
 291 be used by the department to administer this chapter.

292 Section 6. Section 531.59, Florida Statutes, is created to
 293 read:

294 531.59 Suspension and revocation of permits.--A weighing
 295 or measuring device permit issued under ss. 531.56-531.62 may be
 296 suspended or revoked by the department if the device for which
 297 the permit was issued is used in violation of this chapter or
 298 rules adopted under this chapter.

299 Section 7. Section 531.60, Florida Statutes, is created to
 300 read:

301 531.60 Noncommercial devices; permit required for testing
 302 by department.--The department may not test a weighing or
 303 measuring device for which a permit fee is established in s.
 304 531.58, even if the device is not used for commercial purposes
 305 as defined by department rule, unless a permit is obtained for
 306 the device and the applicable fee is paid to the department
 307 under ss. 531.58-531.62.

308 Section 8. Section 531.61, Florida Statutes, is created to
 309 read:

310 531.61 Forms, permits, certificates, and identification
 311 tags or stickers; registration application forms.--

312 (1) The department shall prescribe such forms, permits,
 313 certificates, and identification tags or stickers necessary to
 314 administer ss. 531.56-531.62.

315 (2) Upon issuance of a weighing or measuring device
 316 permit, the department shall issue to the applicant a
 317 certificate or other evidence that the device is permitted
 318 pursuant to ss. 531.56-531.62.

319 (3) An application for a weighing or measuring device
 320 permit must be submitted to the department in the format
 321 prescribed by the department. The application must contain the
 322 information required by the department.

323 Section 9. Section 531.62, Florida Statutes, is created to
 324 read:

325 531.62 Notice of violation of unpermitted weighing or
 326 measuring device; tagging or sealing devices to prevent
 327 unpermitted use; penalties.--If a weighing or measuring device
 328 for which a permit fee is established in s. 531.58 is used for
 329 commercial purposes as defined by department rule and a permit
 330 was not obtained for the device, the department may:

331 (1) Prohibit any further commercial use of the unpermitted
 332 device until the applicable permit is issued.

333 (2) Attach to the device such forms, notices, tags, or
 334 seals to prevent the continued unpermitted use of the device.

335 (3) Assess a late fee in accordance with s. 531.56(3).

336 (4) In addition to requiring payment of the applicable
 337 fees required to obtain a valid permit for use of the device,
 338 impose any penalty authorized in s. 531.50(1) against the owner
 339 and any person using the device.

340 Section 10. Paragraph (a) of subsection (2) of section
 341 576.021, Florida Statutes, is amended to read:

342 576.021 Registration and licensing.--

343 (2) (a) A person may not distribute a specialty fertilizer
 344 in this state until it is registered with the department by the
 345 licensee whose name appears on the label. An application for
 346 registration of each grade of specialty fertilizer shall be made
 347 on a form furnished by the department and shall be accompanied
 348 by an annual fee of \$100 for each specialty fertilizer that is
 349 registered ~~for the first five registrations for each grade of~~
 350 ~~each brand. If more than five grades of specialty fertilizer are~~
 351 ~~to be registered by a licensee, the registration fee for the~~
 352 ~~sixth grade registered and for each subsequent grade registered~~
 353 ~~shall be \$25 for each grade of each brand.~~ All specialty
 354 fertilizer registrations expire June 30 each year. All licensing
 355 and registration fees paid to the department under this section
 356 shall be deposited into the State Treasury to be placed in the
 357 General Inspection Trust Fund to be used for the sole purpose of
 358 funding the fertilizer inspection program.

359 Section 11. Paragraph (a) of subsection (2) of section
 360 576.045, Florida Statutes, is amended to read:

361 576.045 Nitrogen and phosphorus; findings and intent;
 362 fees; purpose; best-management practices; waiver of liability;
 363 compliance; rules; exclusions; expiration.--

364 (2) FEES.--

365 (a) In addition to the fees imposed under ss. 576.021 and
 366 576.041, the following supplemental fees shall be collected and
 367 paid by licensees for the sole purpose of implementing this
 368 section:

369 1. One hundred dollars for each license to distribute
 370 fertilizer.

371 2. One hundred dollars for each ~~of the first five~~
 372 specialty fertilizer ~~registrations and \$25 for each~~ registration
 373 ~~after the first five.~~

374 3. Fifty cents per ton for all fertilizer that contains
 375 nitrogen or phosphorus and that is sold in this state.

376 Section 12. Subsection (1) of section 578.08, Florida
 377 Statutes, is amended to read:

378 578.08 Registrations.--

379 (1) Every person, except as provided in subsection (4) and
 380 s. 578.14, before selling, distributing for sale, offering for
 381 sale, exposing for sale, handling for sale, or soliciting orders
 382 for the purchase of any agricultural, vegetable, flower, or
 383 forest tree seed or mixture thereof, shall first register with
 384 the department as a seed dealer. The application for
 385 registration shall include the name and location of each place
 386 of business at which the seed is sold, distributed for sale,
 387 offered for sale, exposed for sale, or handled for sale. The
 388 application for registration shall be accompanied by an annual
 389 registration fee for each such place of business based on the
 390 gross receipts from the sale of such seed for the last preceding
 391 license year as follows:

392 (a)1. Receipts less than \$2,500.01, fee of \$100.~~....\$50~~

393 2. Receipts more than \$2,500 and less than \$5,000.01, fee
 394 of \$200.~~....\$100~~

395 3. Receipts more than \$5,000 and less than \$10,000.01, fee
 396 of \$350.~~....\$175~~

397 4. Receipts more than \$10,000 and less than \$20,000.01,
 398 fee of \$800.~~....\$400~~

399 5. Receipts more than \$20,000 and less than \$40,000.01,
400 fee of \$1,000.~~....\$500~~

401 6. Receipts more than \$40,000 and less than \$70,000.01,
402 fee of \$1,200.~~....\$600~~

403 7. Receipts more than \$70,000 and less than \$150,000.01,
404 fee of \$1,600.~~....\$800~~

405 8. Receipts more than \$150,000 and less than \$400,000.01,
406 fee of \$2,400.~~....\$1,200~~

407 9. Receipts more than \$400,000, fee of \$4,600.~~....\$2,300~~

408 (b) For places of business not previously in operation,
409 the fee shall be based on anticipated receipts for the first
410 license year.

411 Section 13. Subsection (2) of section 589.08, Florida
412 Statutes, is amended to read:

413 589.08 Land acquisition restrictions.--

414 (2) The division may receive, hold the custody of, and
415 exercise the control of any lands, and set aside into a
416 separate, distinct, and inviolable fund, the proceeds which may
417 be derived from the sales of the products of such lands, the use
418 thereof in any manner, or the sale of such lands, except that
419 ~~save the~~ 25 percent of the proceeds thereof shall ~~to~~ be paid
420 into the State School Fund as provided by law. The division may
421 use and apply such funds for the acquisition, use, custody,
422 management, development, or improvement of any lands vested in
423 or subject to the control of such division. After full payment
424 is has been made to the Federal Government or other grantor for
425 the purchase of a state forest, ~~to the Federal Government or~~
426 ~~other grantor,~~ then 15 percent of the gross receipts from a

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427 | state forest shall be paid to the fiscally constrained county or
428 | counties as described in s. 218.67(1) in which the forest ~~it~~ is
429 | located in proportion to the acreage located in each fiscally
430 | constrained county for use by the county or counties for school
431 | purposes.

432 | Section 14. Section 589.081, Florida Statutes, is amended
433 | to read:

434 | 589.081 Withlacoochee State Forest and Goethe State
435 | Forest; payment to counties of portion of gross receipts.--The
436 | Division of Forestry shall pay 15 percent of the gross receipts
437 | from Withlacoochee State Forest and the Goethe State Forest to
438 | each fiscally constrained county as described in s. 218.67(1) in
439 | which a portion of the respective forest is located in
440 | proportion to the forest acreage located in each fiscally
441 | constrained county. The funds must be equally divided between
442 | the board of county commissioners and the school board of each
443 | fiscally constrained county.

444 | Section 15. Except as otherwise expressly provided in this
445 | act, this act shall take effect July 1, 2009.