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LEGISLATIVE ACTION

Senate

House

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Floor: 4/AD/2R

05/05/2011 02:57 PM

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Senator Siplin moved the following:

**Senate Amendment (with title amendment)**

Delete lines 621 - 667

and insert:

Section 17. Subsections (16), (19), and (28) of section 570.07, Florida Statutes, are amended, present subsection (41) is renumbered as subsection (42), and a new subsection (41) is added to that section, to read:

570.07 Department of Agriculture and Consumer Services; functions, powers, and duties.—The department shall have and exercise the following functions, powers, and duties:

(16) To enforce the state laws and rules relating to:

(a) Fruit and vegetable inspection and grading;



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- 14 (b) Pesticide spray, residue inspection, and removal;  
15 (c) Registration, labeling, inspection, sale, composition,  
16 formulation, wholesale and retail distribution, and analysis of  
17 commercial stock feeds and registration, labeling, inspection,  
18 and analysis of commercial fertilizers;  
19 (d) Classification, inspection, and sale of poultry and  
20 eggs;  
21 (e) Registration, inspection, and analysis of gasolines and  
22 oils;  
23 (f) Registration, labeling, inspection, and analysis of  
24 pesticides;  
25 (g) Registration, labeling, inspection, germination  
26 testing, and sale of seeds, both common and certified;  
27 (h) Weights, measures, and standards;  
28 (i) Foods, as set forth in the Florida Food Safety Act;  
29 (j) Inspection and certification of honey;  
30 (k) Sale of liquid fuels;  
31 (l) Licensing of dealers in agricultural products;  
32 (m) Administration and enforcement of all regulatory  
33 legislation applying to milk and milk products, ice cream, and  
34 frozen desserts;  
35 (n) Recordation and inspection of marks and brands of  
36 livestock; and  
37 (o) Regulation of fertilizer, including its sale,  
38 composition, packaging, labeling, wholesale and retail  
39 distribution, and formulation, including nutrient content level  
40 and release rates; and  
41 (p) ~~(o)~~ All other regulatory laws relating to agriculture.  
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43 In order to ensure uniform health and safety standards, the  
44 adoption of standards and fines in the subject areas of  
45 paragraphs (a)-(n) is expressly preempted to the state and the  
46 department. Any local government enforcing the subject areas of  
47 paragraphs (a)-(n) must use the standards and fines set forth in  
48 the pertinent statutes or any rules adopted by the department  
49 pursuant to those statutes.

50 (19) To protect the dairy interests of the state; and, to  
51 that end, it shall enforce those functions, powers, and duties  
52 given to it in chapter ~~chapters~~ 502 and ~~503~~.

53 (28) For purposes of pollution control and the prevention  
54 of wildfires ~~purposes~~, to regulate open burning connected with  
55 ~~rural~~ land-clearing, agricultural, or forestry operations,  
56 ~~except fires for cold or frost protection~~.

57 (41) (a) Except as otherwise provided in paragraph (b), to  
58 exercise the exclusive authority to regulate the sale,  
59 composition, packaging, labeling, wholesale and retail  
60 distribution, and formulation, including nutrient content level  
61 and release rates, of fertilizer under chapter 576. This  
62 subsection expressly preempts such regulation of fertilizer to  
63 the state.

64 (b) An ordinance regulating the sale of fertilizer adopted  
65 by a county or municipal government before July 1, 2011, is  
66 exempt from this subsection, and the county or municipal  
67 government may enforce such ordinance within its respective  
68 jurisdiction.

69 Section 18. Subsection (5) is added to section 576.181,  
70 Florida Statutes, to read:

71 576.181 Administration; rules; procedure.—



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72           (5) (a) Except as otherwise provided in paragraph (b), the  
73 department has exclusive authority to regulate the sale,  
74 composition, packaging, labeling, wholesale and retail  
75 distribution, and formulation, including nutrient content level  
76 and release rates, of fertilizer. This subsection expressly  
77 preempts such regulation of fertilizer to the state.

78           (b) An ordinance regulating the sale of fertilizer adopted  
79 by a county or municipal government before July 1, 2011, is  
80 exempt from this subsection, and the county or municipal  
81 government may enforce such ordinance within its respective  
82 jurisdiction.

83  
84 ===== T I T L E   A M E N D M E N T =====

85 And the title is amended as follows:

86           Delete lines 78 - 84

87 and insert:

88           amending ss. 570.07 and 576.181, F.S.; requiring the  
89           department to regulate the sale, composition,  
90           packaging, labeling, wholesale and retail  
91           distribution, and formulation of fertilizer;  
92           preempting such regulation of fertilizer to the state;  
93           exempting certain ordinances adopted before a  
94           specified date from such preemption; authorizing  
95           county and municipal governments to enforce such  
96           ordinances exempt from preemption; revising the  
97           department's powers and duties relating to pollution  
98           control and the prevention of