

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Ingram offered the following:

2
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Section 403.9336, Florida Statutes, is amended
6 to read:

7 403.9336 Legislative findings.—The Legislature finds that
8 the implementation of the Model Ordinance for Florida-Friendly
9 Fertilizer Use on Urban Landscapes 2010 ~~(2008)~~, which was
10 developed by the department in conjunction with the Consumer
11 Fertilizer Task Force, the Department of Agriculture and
12 Consumer Services, and the University of Florida Institute of
13 Food and Agricultural Sciences, will assist in protecting the
14 quality of the state's ~~Florida's~~ surface water and groundwater
15 resources. The Legislature further finds that local conditions,
16 including variations in the types and quality of water bodies,
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17 site-specific soils and geology, and urban or rural densities
18 and characteristics, may necessitate the implementation of
19 additional or more stringent fertilizer management practices at
20 the local government level.

21 Section 2. Section 403.9337, Florida Statutes, is amended
22 to read:

23 403.9337 Model Ordinance for Florida-Friendly Fertilizer
24 Use on Urban Landscapes.—

25 (1) All county and municipal governments are encouraged to
26 adopt and enforce the most recent version of the Model Ordinance
27 for Florida-Friendly Fertilizer Use on Urban Landscapes or an
28 equivalent requirement as a mechanism for protecting local
29 surface and groundwater quality.

30 (2) Unless exempt under paragraph (4) (a), each county and
31 municipal government located within the watershed of a water
32 body or water segment that is listed as impaired by nutrients
33 pursuant to s. 403.067, shall, ~~at a minimum,~~ adopt and enforce
34 the most recent version of the department's Model Ordinance for
35 Florida-Friendly Fertilizer Use on Urban Landscapes.

36 (3) Notwithstanding subsection (2), a county or municipal
37 local government may adopt fertilizer ordinances that establish
38 standards that are in addition to ~~additional~~ or more stringent
39 ~~standards~~ than the model ordinance if each of the following
40 criteria is ~~are~~ met:

41 (a) The county or municipal ~~local~~ government has
42 ~~demonstrated, as part of~~ a comprehensive program to address
43 multiple nonpoint sources of nutrient pollution which is
44 science-based, and economically and technically feasible, and
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45 ~~the that~~ additional or more stringent standards ~~than the model~~
46 ~~ordinance~~ are necessary ~~in order~~ to adequately address urban
47 fertilizer contributions to nonpoint source nutrient loading to
48 a water body;—

49 (b) The county or municipal local government documents
50 that it has considered all relevant scientific information,
51 including input from the department, ~~the institute,~~ the
52 Department of Agriculture and Consumer Services, and the
53 University of Florida Institute of Food and Agricultural
54 Sciences, if provided, on the need for additional or more
55 stringent provisions to address fertilizer use as a contributor
56 to water quality degradation. All documentation must become part
57 of the public record before adoption of the additional or more
58 stringent criteria; and

59 (c) The county or municipal government reports the
60 adoption of its fertilizer ordinances to the department.

61 (4) (a) (3) This section does not apply to any fertilizer
62 ordinances of a Any county or municipal government that adopted
63 such ordinances before July 1, 2011 its own fertilizer use
64 ordinance before January 1, 2009, is exempt from this section.
65 ~~Ordinances adopted or amended on or after January 1, 2009, must~~
66 ~~substantively conform to the most recent version of the model~~
67 ~~fertilizer ordinance and are subject to subsections (1) and (2),~~
68 ~~as applicable.~~

69 (b) (4) This section does not apply to the use of
70 fertilizer on farm operations as defined in s. 823.14 or on
71 lands classified as agricultural lands pursuant to s. 193.461.

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72 Section 3. Subsection (16) of section 570.07, Florida
73 Statutes, is amended, present subsection (41) is renumbered as
74 subsection (42), and a new subsection (41) is added to that
75 section, to read:

76 570.07 Department of Agriculture and Consumer Services;
77 functions, powers, and duties.—The department shall have and
78 exercise the following functions, powers, and duties:

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

80 (a) Fruit and vegetable inspection and grading;

81 (b) Pesticide spray, residue inspection, and removal;

82 (c) Registration, labeling, inspection, and analysis of
83 commercial stock feeds and commercial fertilizers;

84 (d) Classification, inspection, and sale of poultry and
85 eggs;

86 (e) Registration, inspection, and analysis of gasolines
87 and oils;

88 (f) Registration, labeling, inspection, and analysis of
89 pesticides;

90 (g) Registration, labeling, inspection, germination
91 testing, and sale of seeds, both common and certified;

92 (h) Weights, measures, and standards;

93 (i) Foods, as set forth in the Florida Food Safety Act;

94 (j) Inspection and certification of honey;

95 (k) Sale of liquid fuels;

96 (l) Licensing of dealers in agricultural products;

97 (m) Administration and enforcement of all regulatory
98 legislation applying to milk and milk products, ice cream, and
99 frozen desserts;

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100 (n) Recordation and inspection of marks and brands of
101 livestock; ~~and~~

102 (o) Regulation of fertilizer, including its sale,
103 composition, packaging, labeling, retail and wholesale
104 distribution, and formulation, including nutrient content level
105 and release rates; and

106 (p) ~~(o)~~ All other regulatory laws relating to agriculture.
107

108 In order to ensure uniform health and safety standards, the
109 adoption of standards and fines in the subject areas of
110 paragraphs (a)-(n) is expressly preempted to the state and the
111 department. Any local government enforcing the subject areas of
112 paragraphs (a)-(n) must use the standards and fines set forth in
113 the pertinent statutes or any rules adopted by the department
114 pursuant to those statutes.

115 (41) (a) Except as otherwise provided in paragraph (b), the
116 department has exclusive authority to regulate the sale,
117 composition, packaging, labeling, retail and wholesale
118 distribution, and formulation, including nutrient content level
119 and release rates, of fertilizer under chapter 576. This
120 subsection expressly preempts such regulation of fertilizer to
121 the state.

122 (b) An ordinance regulating the sale of fertilizer adopted
123 by a county or municipal government before July 1, 2011, is
124 exempt from this subsection, and the county or municipal
125 government is authorized to enforce such ordinance within its
126 respective jurisdiction.

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127 (42)~~(41)~~ Notwithstanding the provisions of s. 287.057(22)
 128 that require all agencies to use the online procurement system
 129 developed by the Department of Management Services, the
 130 department may continue to use its own online system. However,
 131 vendors utilizing such system shall be prequalified as meeting
 132 mandatory requirements and qualifications and shall remit fees
 133 pursuant to s. 287.057(22), and any rules implementing s.
 134 287.057.

135 Section 4. Subsection (5) is added to section 576.181,
 136 Florida Statutes, to read:

137 576.181 Administration; rules; procedure.-

138 (5) (a) Except as otherwise provided in paragraph (b), the
 139 department has exclusive authority to regulate the sale,
 140 composition, packaging, labeling, retail and wholesale
 141 distribution, and formulation, including nutrient content level
 142 and release rates, of fertilizer. This subsection expressly
 143 preempts such regulation of fertilizer to the state.

144 (b) An ordinance regulating the sale of fertilizer adopted
 145 by a county or municipal government before July 1, 2011, is
 146 exempt from this subsection, and the county or municipal
 147 government is authorized to enforce such ordinance within its
 148 respective jurisdiction.

149 Section 5. This act shall take effect July 1, 2011.
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152 **T I T L E A M E N D M E N T**

153 Remove the entire title and insert:

154 A bill to be entitled

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155 An act relating to fertilizer; amending s. 403.9336, F.S.;
156 revising legislative findings relating to implementation
157 of the Model Ordinance for Florida-Friendly Fertilizer Use
158 on Urban Landscapes; updating reference to the version of
159 the model ordinance; amending s. 403.9337, F.S.; revising
160 the authority of county and municipal governments to adopt
161 fertilizer standards that are in addition to or more
162 stringent than standards of the model ordinance; requiring
163 county and municipal governments to report the adoption of
164 such standards to the Department of Environmental
165 Protection; providing for applicability of specified
166 provisions; amending ss. 570.07 and 576.181, F.S.;
167 requiring the Department of Agriculture and Consumer
168 Services to regulate the sale, composition, packaging,
169 labeling, retail and wholesale distribution, and
170 formulation of fertilizer; preempting such regulation of
171 fertilizer to the state; exempting certain ordinances
172 adopted before a specified date from such preemption;
173 authorizing county and municipal governments to enforce
174 such ordinances exempt from preemption; providing an
175 effective date.