

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Tobia 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,~~

709897

Approved For Filing: 4/12/2011 5:20:55 PM

Amendment No.

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.—Except as otherwise provided in ss.
25 570.07(41) and 576.181(5):

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

31 (2) Each county and municipal government located within
32 the watershed of a water body or water segment that is listed as
33 impaired by nutrients pursuant to s. 403.067, shall, ~~at a~~
34 ~~minimum,~~ adopt and enforce the most recent version of the
35 department's Model Ordinance for Florida-Friendly Fertilizer Use
36 on Urban Landscapes. ~~A local government may adopt additional or~~
37 ~~more stringent standards than the model ordinance if the~~
38 ~~following criteria are met:~~

39 ~~(a) The local government has demonstrated, as part of a~~
40 ~~comprehensive program to address nonpoint sources of nutrient~~
41 ~~pollution which is science-based, and economically and~~
42 ~~technically feasible, that additional or more stringent~~
43 ~~standards than the model ordinance are necessary in order to~~

709897

Approved For Filing: 4/12/2011 5:20:55 PM

Amendment No.

44 ~~adequately address urban fertilizer contributions to nonpoint~~
45 ~~source nutrient loading to a water body.~~

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

55 ~~(3) Any county or municipal government that adopted its~~
56 ~~own fertilizer use ordinance before January 1, 2009, is exempt~~
57 ~~from this section. Ordinances adopted or amended on or after~~
58 ~~January 1, 2009, must substantively conform to the most recent~~
59 ~~version of the model fertilizer ordinance and are subject to~~
60 ~~subsections (1) and (2), as applicable.~~

61 ~~(3)-(4)~~ This section does not apply to the use of
62 fertilizer on farm operations as defined in s. 823.14 or on
63 lands classified as agricultural lands pursuant to s. 193.461.

64 Section 3. Subsection (16) of section 570.07, Florida
65 Statutes, is amended, present subsection (41) is renumbered as
66 subsection (42), and a new subsection (41) is added to that
67 section, to read:

68 570.07 Department of Agriculture and Consumer Services;
69 functions, powers, and duties.—The department shall have and
70 exercise the following functions, powers, and duties:

71 (16) To enforce the state laws and rules relating to:
709897

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Amendment No.

- 72 (a) Fruit and vegetable inspection and grading;
73 (b) Pesticide spray, residue inspection, and removal;
74 (c) Registration, labeling, inspection, and analysis of
75 commercial stock feeds and commercial fertilizers;
76 (d) Classification, inspection, and sale of poultry and
77 eggs;
78 (e) Registration, inspection, and analysis of gasolines
79 and oils;
80 (f) Registration, labeling, inspection, and analysis of
81 pesticides;
82 (g) Registration, labeling, inspection, germination
83 testing, and sale of seeds, both common and certified;
84 (h) Weights, measures, and standards;
85 (i) Foods, as set forth in the Florida Food Safety Act;
86 (j) Inspection and certification of honey;
87 (k) Sale of liquid fuels;
88 (l) Licensing of dealers in agricultural products;
89 (m) Administration and enforcement of all regulatory
90 legislation applying to milk and milk products, ice cream, and
91 frozen desserts;
92 (n) Recordation and inspection of marks and brands of
93 livestock; ~~and~~
94 (o) Regulation of fertilizer, including its sale,
95 composition, packaging, labeling, retail and wholesale
96 distribution, and formulation, including nutrient content level
97 and release rates; and
98 (p) ~~(o)~~ All other regulatory laws relating to agriculture.
99

709897

Approved For Filing: 4/12/2011 5:20:55 PM

Amendment No.

100 In order to ensure uniform health and safety standards, the
101 adoption of standards and fines in the subject areas of
102 paragraphs (a)-(n) is expressly preempted to the state and the
103 department. Any local government enforcing the subject areas of
104 paragraphs (a)-(n) must use the standards and fines set forth in
105 the pertinent statutes or any rules adopted by the department
106 pursuant to those statutes.

107 (41) The department has exclusive authority to regulate
108 the sale, composition, packaging, labeling, retail and wholesale
109 distribution, and formulation, including nutrient content level
110 and release rates, of fertilizer under chapter 576. This
111 subsection expressly preempts such regulation of fertilizer to
112 the state. Such regulation of fertilizer by a county or
113 municipal government is void, regardless of when adopted, except
114 that a county or municipal government may, pursuant to ss.
115 403.9336 and 403.9337, enforce the Model Ordinance for Florida-
116 Friendly Fertilizer Use on Urban Landscapes within its
117 respective jurisdiction.

118 ~~(42)-(41)~~ Notwithstanding the provisions of s. 287.057(22)
119 that require all agencies to use the online procurement system
120 developed by the Department of Management Services, the
121 department may continue to use its own online system. However,
122 vendors utilizing such system shall be prequalified as meeting
123 mandatory requirements and qualifications and shall remit fees
124 pursuant to s. 287.057(22), and any rules implementing s.
125 287.057.

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

709897

Approved For Filing: 4/12/2011 5:20:55 PM

Amendment No.

576.181 Administration; rules; procedure.-

(5) The department has exclusive authority to regulate the sale, composition, packaging, labeling, retail and wholesale distribution, and formulation, including nutrient content level and release rates, of fertilizer. This subsection expressly preempts such regulation of fertilizer to the state. Such regulation of fertilizer by a county or municipal government is void, regardless of when adopted, except that a county or municipal government may, pursuant to ss. 403.9336 and 403.9337, enforce the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes within its respective jurisdiction.

Section 5. This act shall take effect July 1, 2011.

T I T L E A M E N D M E N T

Remove the entire title and insert:

A bill to be entitled

An act relating to fertilizer; amending s. 403.9336, F.S.; revising legislative findings relating to implementation of the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes; updating reference to the version of the model ordinance; deleting legislative findings relating to implementation by local governments of certain fertilizer management practices; amending s. 403.9337, F.S.; deleting the authority of county and municipal governments to adopt fertilizer standards that are in addition to or more stringent than standards of the model ordinance; amending ss. 570.07 and 576.181, F.S.;

709897

Approved For Filing: 4/12/2011 5:20:55 PM

Amendment No.

156 requiring the Department of Agriculture and Consumer
157 Services to regulate the sale, composition, packaging,
158 labeling, retail and wholesale distribution, and
159 formulation of fertilizer; preempting such regulation of
160 fertilizer to the state; specifying that such regulation
161 of fertilizer by county and municipal governments is void;
162 authorizing county and municipal governments to enforce
163 the model ordinance; providing an effective date.