

CS/HB 457

2011

1 A bill to be entitled
2 An act relating to fertilizer; amending s. 403.9336, F.S.;
3 deleting legislative findings relating to the
4 implementation by local governments of certain fertilizer
5 management practices; amending s. 403.9337, F.S.; deleting
6 authority for certain counties and municipalities to adopt
7 fertilizer management practices more stringent than
8 standards of a specified model ordinance; amending ss.
9 570.07 and 576.181, F.S.; requiring the Department of
10 Agricultural and Consumer Services to regulate the sale,
11 composition, formulation, packaging, use, application, and
12 distribution of fertilizer; preempting such regulation of
13 fertilizer to the state and the department; specifying
14 that such regulation of fertilizer by counties,
15 municipalities, and other political subdivisions is void;
16 authorizing county and municipal governments to enforce
17 the model ordinance; providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Section 403.9336, Florida Statutes, is amended
22 to read:

23 403.9336 Legislative findings.—The Legislature finds that
24 the implementation of the Model Ordinance for Florida-Friendly
25 Fertilizer Use on Urban Landscapes (2008), which was developed
26 by the department in conjunction with the Consumer Fertilizer
27 Task Force, the Department of Agriculture and Consumer Services,
28 and the University of Florida Institute of Food and Agricultural

29 Sciences, will assist in protecting the quality of Florida's
30 surface water and groundwater resources. ~~The Legislature further~~
31 ~~finds that local conditions, including variations in the types~~
32 ~~and quality of water bodies, site specific soils and geology,~~
33 ~~and urban or rural densities and characteristics, may~~
34 ~~necessitate the implementation of additional or more stringent~~
35 ~~fertilizer management practices at the local government level.~~

36 Section 2. Section 403.9337, Florida Statutes, is amended
37 to read:

38 403.9337 Model Ordinance for Florida-Friendly Fertilizer
39 Use on Urban Landscapes.—Except as otherwise provided in ss.
40 570.07(41) and 576.181(5):

41 (1) All county and municipal governments are encouraged to
42 adopt and enforce the Model Ordinance for Florida-Friendly
43 Fertilizer Use on Urban Landscapes or an equivalent requirement
44 as a mechanism for protecting local surface and groundwater
45 quality.

46 (2) Each county and municipal government located within
47 the watershed of a water body or water segment that is listed as
48 impaired by nutrients pursuant to s. 403.067, shall, ~~at a~~
49 ~~minimum,~~ adopt the department's Model Ordinance for Florida-
50 Friendly Fertilizer Use on Urban Landscapes. ~~A local government~~
51 ~~may adopt additional or more stringent standards than the model~~
52 ~~ordinance if the following criteria are met:~~

53 ~~(a) The local government has demonstrated, as part of a~~
54 ~~comprehensive program to address nonpoint sources of nutrient~~
55 ~~pollution which is science-based, and economically and~~
56 ~~technically feasible, that additional or more stringent~~

57 ~~standards than the model ordinance are necessary in order to~~
58 ~~adequately address urban fertilizer contributions to nonpoint~~
59 ~~source nutrient loading to a water body.~~

60 ~~(b) The local government documents that it has considered~~
61 ~~all relevant scientific information, including input from the~~
62 ~~department, the institute, the Department of Agriculture and~~
63 ~~Consumer Services, and the University of Florida Institute of~~
64 ~~Food and Agricultural Sciences, if provided, on the need for~~
65 ~~additional or more stringent provisions to address fertilizer~~
66 ~~use as a contributor to water quality degradation. All~~
67 ~~documentation must become part of the public record before~~
68 ~~adoption of the additional or more stringent criteria.~~

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

75 ~~(3)(4)~~ This section does not apply to the use of
76 fertilizer on farm operations as defined in s. 823.14 or on
77 lands classified as agricultural lands pursuant to s. 193.461.

78 Section 3. Subsection (16) of section 570.07, Florida
79 Statutes, is amended, present subsection (41) is renumbered as
80 subsection (42), and a new subsection (41) is added to that
81 section, to read:

82 570.07 Department of Agriculture and Consumer Services;
83 functions, powers, and duties.—The department shall have and
84 exercise the following functions, powers, and duties:

- 85 (16) To enforce the state laws and rules relating to:
- 86 (a) Fruit and vegetable inspection and grading.~~†~~
- 87 (b) Pesticide spray, residue inspection, and removal.~~†~~
- 88 (c) Registration, labeling, inspection, and analysis of
- 89 commercial stock feeds and commercial fertilizers.~~†~~
- 90 (d) Classification, inspection, and sale of poultry and
- 91 eggs.~~†~~
- 92 (e) Registration, inspection, and analysis of gasolines
- 93 and oils.~~†~~
- 94 (f) Registration, labeling, inspection, and analysis of
- 95 pesticides.~~†~~
- 96 (g) Registration, labeling, inspection, germination
- 97 testing, and sale of seeds, both common and certified.~~†~~
- 98 (h) Weights, measures, and standards.~~†~~
- 99 (i) Foods, as set forth in the Florida Food Safety Act.~~†~~
- 100 (j) Inspection and certification of honey.~~†~~
- 101 (k) Sale of liquid fuels.~~†~~
- 102 (l) Licensing of dealers in agricultural products.~~†~~
- 103 (m) Administration and enforcement of all regulatory
- 104 legislation applying to milk and milk products, ice cream, and
- 105 frozen desserts.~~†~~
- 106 (n) Recordation and inspection of marks and brands of
- 107 livestock.~~†~~ ~~and~~
- 108 (o) Regulation of fertilizer, including the sale,
- 109 composition, formulation, packaging, and distribution thereof.
- 110 (p) Regulation of the use and application of fertilizer.
- 111 (q) ~~(o)~~ All other regulatory laws relating to agriculture.
- 112

113 In order to ensure uniform health and safety standards, the
 114 adoption of standards and fines in the subject areas of
 115 paragraphs (a)-(o) ~~(a)-(n)~~ is expressly preempted to the state
 116 and the department. Any local government enforcing the subject
 117 areas of paragraphs (a)-(o) ~~(a)-(n)~~ must use the standards and
 118 fines set forth in the pertinent statutes or any rules adopted
 119 by the department pursuant to those statutes. In order to ensure
 120 uniform health safety standards and fines in the regulation of
 121 the use and application of fertilizer, all county or municipal
 122 governments may enforce the Model Ordinance for Florida-Friendly
 123 Fertilizer Use on Urban Landscapes as provided in s. 403.9337
 124 within their respective jurisdictions.

125 (41) The department has exclusive authority to regulate
 126 the sale, composition, formulation, packaging, use, application,
 127 and distribution of fertilizer under chapter 576. This
 128 subsection expressly preempts such regulation of fertilizer to
 129 the state and the department. Such regulation of fertilizer by a
 130 county, municipality, or other political subdivision is void,
 131 regardless of when adopted.

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

134 576.181 Administration; rules; procedure; preemption.—

135 (5) The department has exclusive authority to regulate the
 136 sale, composition, formulation, packaging, use, application, and
 137 distribution of fertilizer. This subsection expressly preempts
 138 such regulation of fertilizer to the state and the department.
 139 Such regulation of fertilizer by a county, municipality, or
 140 other political subdivision is void, regardless of when adopted.

CS/HB 457

2011

141 | All county or municipal governments may enforce the Model
142 | Ordinance for Florida-Friendly Fertilizer Use on Urban
143 | Landscapes as provided in s. 403.9337 within their respective
144 | jurisdictions.

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