

CS/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; specifying that such preemption does
18 not limit certain authority of the Department of
19 Environmental Protection and water management districts;
20 providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Section 403.9336, Florida Statutes, is amended
25 to read:

26 403.9336 Legislative findings.—The Legislature finds that
27 the implementation of the Model Ordinance for Florida-Friendly
28 Fertilizer Use on Urban Landscapes (2010) ~~(2008)~~, which was

29 developed by the department in conjunction with the Consumer
 30 Fertilizer Task Force, the Department of Agriculture and
 31 Consumer Services, and the University of Florida Institute of
 32 Food and Agricultural Sciences, will assist in protecting the
 33 quality of Florida's surface water and groundwater resources.
 34 ~~The Legislature further finds that local conditions, including~~
 35 ~~variations in the types and quality of water bodies, site-~~
 36 ~~specific soils and geology, and urban or rural densities and~~
 37 ~~characteristics, may necessitate the implementation of~~
 38 ~~additional or more stringent fertilizer management practices at~~
 39 ~~the local government level.~~

40 Section 2. Section 403.9337, Florida Statutes, is amended
 41 to read:

42 403.9337 Model Ordinance for Florida-Friendly Fertilizer
 43 Use on Urban Landscapes.—Except as otherwise provided in ss.
 44 570.07(41) and 576.181(5):

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

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

57 ~~eriteria are met:~~

58 ~~(a) The local government has demonstrated, as part of a~~
59 ~~comprehensive program to address nonpoint sources of nutrient~~
60 ~~pollution which is science based, and economically and~~
61 ~~technically feasible, that additional or more stringent~~
62 ~~standards than the model ordinance are necessary in order to~~
63 ~~adequately address urban fertilizer contributions to nonpoint~~
64 ~~source nutrient loading to a water body.~~

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

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

80 (3)~~(4)~~ This section does not apply to the use of
81 fertilizer on farm operations as defined in s. 823.14 or on
82 lands classified as agricultural lands pursuant to s. 193.461.

83 Section 3. Subsection (16) of section 570.07, Florida
84 Statutes, is amended, present subsection (41) is renumbered as

85 subsection (42), and a new subsection (41) is added to that
 86 section, to read:

87 570.07 Department of Agriculture and Consumer Services;
 88 functions, powers, and duties.—The department shall have and
 89 exercise the following functions, powers, and duties:

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

91 (a) Fruit and vegetable inspection and grading.†

92 (b) Pesticide spray, residue inspection, and removal.†

93 (c) Registration, labeling, inspection, and analysis of
 94 commercial stock feeds and commercial fertilizers.†

95 (d) Classification, inspection, and sale of poultry and
 96 eggs.†

97 (e) Registration, inspection, and analysis of gasolines
 98 and oils.†

99 (f) Registration, labeling, inspection, and analysis of
 100 pesticides.†

101 (g) Registration, labeling, inspection, germination
 102 testing, and sale of seeds, both common and certified.†

103 (h) Weights, measures, and standards.†

104 (i) Foods, as set forth in the Florida Food Safety Act.†

105 (j) Inspection and certification of honey.†

106 (k) Sale of liquid fuels.†

107 (l) Licensing of dealers in agricultural products.†

108 (m) Administration and enforcement of all regulatory
 109 legislation applying to milk and milk products, ice cream, and
 110 frozen desserts.†

111 (n) Recordation and inspection of marks and brands of
 112 livestock.† ~~and~~

- 113 (o) Regulation of fertilizer, including its sale,
- 114 composition, formulation, packaging, and distribution.
- 115 (p) Regulation of the use and application of fertilizer.
- 116 (q) ~~(n)~~ All other regulatory laws relating to agriculture.

117

118 In order to ensure uniform health and safety standards, the

119 adoption of standards and fines in the subject areas of

120 paragraphs (a)-(o) ~~(a)-(n)~~ is expressly preempted to the state

121 and the department. Any local government enforcing the subject

122 areas of paragraphs (a)-(o) ~~(a)-(n)~~ must use the standards and

123 fines set forth in the pertinent statutes or any rules adopted

124 by the department pursuant to those statutes. In order to ensure

125 uniform health safety standards and fines in the subject area of

126 paragraph (p), county and municipal governments are authorized

127 to enforce the provisions of the Model Ordinance for Florida-

128 Friendly Fertilizer Use on Urban Landscapes as set forth in ss.

129 403.9336 and 403.9337 within their respective jurisdictions.

130 (41) (a) Except as provided in paragraph (b), the

131 department has exclusive authority to regulate the sale,

132 composition, formulation, packaging, use, application, and

133 distribution of fertilizer under chapter 576. This subsection

134 expressly preempts such regulation of fertilizer to the state

135 and the department. Such regulation of fertilizer by a county,

136 municipality, or other political subdivision is void, regardless

137 of when adopted.

138 (b) This subsection does not limit the authority of the

139 Department of Environmental Protection and the state's water

140 management districts under chapters 373 and 403 to adopt rules

CS/CS/HB 457

2011

141 or issue orders requiring fertilizer practices that are
142 necessary to achieve compliance with applicable water quality
143 standards or to implement federally authorized or delegated
144 programs.

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

147 576.181 Administration; rules; procedure; preemption.—

148 (5) (a) Except as provided in paragraph (b), the department
149 has exclusive authority to regulate the sale, composition,
150 formulation, packaging, use, application, and distribution of
151 fertilizer. This subsection expressly preempts such regulation
152 of fertilizer to the state and the department. Such regulation
153 of fertilizer by a county, municipality, or other political
154 subdivision is void, regardless of when adopted. Counties or
155 municipal governments are hereby authorized to enforce the
156 provisions of the Model Ordinance for Florida-Friendly
157 Fertilizer Use on Urban Landscapes, as set forth in ss. 403.9336
158 and 403.9337, in their respective jurisdictions.

159 (b) This subsection does not limit the authority of the
160 Department of Environmental Protection and the state's water
161 management districts under chapters 373 and 403 to adopt rules
162 or issue orders requiring fertilizer practices that are
163 necessary to achieve compliance with applicable water quality
164 standards or to implement federally authorized or delegated
165 programs.

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