

1                                   A bill to be entitled  
 2           An act relating to fertilizer; amending s. 403.9336, F.S.;  
 3           revising legislative findings relating to implementation  
 4           of the Model Ordinance for Florida-Friendly Fertilizer Use  
 5           on Urban Landscapes; updating reference to the version of  
 6           the model ordinance; amending s. 403.9337, F.S.; revising  
 7           the authority of county and municipal governments to adopt  
 8           fertilizer standards that are in addition to or more  
 9           stringent than standards of the model ordinance; requiring  
 10          county and municipal governments to report the adoption of  
 11          such standards to the Department of Environmental  
 12          Protection; providing for applicability of specified  
 13          provisions; amending ss. 570.07 and 576.181, F.S.;  
 14          requiring the Department of Agriculture and Consumer  
 15          Services to regulate the sale, composition, packaging,  
 16          labeling, retail and wholesale distribution, and  
 17          formulation of fertilizer; preempting such regulation of  
 18          fertilizer to the state; authorizing county and municipal  
 19          governments to enforce the model ordinance and certain  
 20          ordinances adopted before a specified date; providing an  
 21          effective date.

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

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

27           403.9336   Legislative findings.—The Legislature finds that  
 28   the implementation of the Model Ordinance for Florida-Friendly

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29 Fertilizer Use on Urban Landscapes 2010 ~~(2008)~~, which was  
30 developed by the department in conjunction with the Consumer  
31 Fertilizer Task Force, the Department of Agriculture and  
32 Consumer Services, and the University of Florida Institute of  
33 Food and Agricultural Sciences, will assist in protecting the  
34 quality of the state's ~~Florida's~~ surface water and groundwater  
35 resources. The Legislature further finds that local conditions,  
36 including variations in the types and quality of water bodies,  
37 site-specific soils and geology, and urban or rural densities  
38 and characteristics, may necessitate the implementation of  
39 additional or more stringent fertilizer management practices at  
40 the local government level.

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

43 403.9337 Model Ordinance for Florida-Friendly Fertilizer  
44 Use on Urban Landscapes.—Except as otherwise provided in ss.  
45 570.07(41) and 576.181(5):

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

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

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

62           (a) The county or municipal local government has  
 63 ~~demonstrated, as part of~~ a comprehensive program to address  
 64 multiple nonpoint sources of nutrient pollution which is  
 65 science-based, and economically and technically feasible, and  
 66 ~~the that~~ additional or more stringent standards ~~than the model~~  
 67 ~~ordinance~~ are necessary ~~in order~~ to adequately address urban  
 68 fertilizer contributions to nonpoint source nutrient loading to  
 69 a water body;-

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

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

82           (4) (a) (3) This section and the preemption provisions of  
 83 ss. 570.07(41) and 576.181(5) do not apply to the fertilizer  
 84 ordinances of a ~~Any~~ county or municipal government that adopted

85 such ordinances before July 1, 2011 ~~its own fertilizer use~~  
 86 ~~ordinance before January 1, 2009, is exempt from this section.~~  
 87 ~~Ordinances adopted or amended on or after January 1, 2009, must~~  
 88 ~~substantively conform to the most recent version of the model~~  
 89 ~~fertilizer ordinance and are subject to subsections (1) and (2),~~  
 90 ~~as applicable.~~

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

94 Section 3. Subsection (16) of section 570.07, Florida  
 95 Statutes, is amended, present subsection (41) is renumbered as  
 96 subsection (42), and a new subsection (41) is added to that  
 97 section, to read:

98 570.07 Department of Agriculture and Consumer Services;  
 99 functions, powers, and duties.—The department shall have and  
 100 exercise the following functions, powers, and duties:

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

102 (a) Fruit and vegetable inspection and grading;

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

104 (c) Registration, labeling, inspection, and analysis of  
 105 commercial stock feeds and commercial fertilizers;

106 (d) Classification, inspection, and sale of poultry and  
 107 eggs;

108 (e) Registration, inspection, and analysis of gasolines  
 109 and oils;

110 (f) Registration, labeling, inspection, and analysis of  
 111 pesticides;

112 (g) Registration, labeling, inspection, germination

- 113 testing, and sale of seeds, both common and certified;
- 114 (h) Weights, measures, and standards;
- 115 (i) Foods, as set forth in the Florida Food Safety Act;
- 116 (j) Inspection and certification of honey;
- 117 (k) Sale of liquid fuels;
- 118 (l) Licensing of dealers in agricultural products;
- 119 (m) Administration and enforcement of all regulatory
- 120 legislation applying to milk and milk products, ice cream, and
- 121 frozen desserts;
- 122 (n) Recordation and inspection of marks and brands of
- 123 livestock; ~~and~~
- 124 (o) Regulation of fertilizer, including its sale,
- 125 composition, packaging, labeling, retail and wholesale
- 126 distribution, and formulation, including nutrient content level
- 127 and release rates; and
- 128 (p) ~~(e)~~ All other regulatory laws relating to agriculture.

129

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

131 adoption of standards and fines in the subject areas of

132 paragraphs (a)-(n) is expressly preempted to the state and the

133 department. Any local government enforcing the subject areas of

134 paragraphs (a)-(n) must use the standards and fines set forth in

135 the pertinent statutes or any rules adopted by the department

136 pursuant to those statutes.

137 (41) (a) Except as otherwise provided in paragraph (b) and

138 s. 403.9337(4) (a), the department has exclusive authority to

139 regulate the sale, composition, packaging, labeling, retail and

140 wholesale distribution, and formulation, including nutrient

141 content level and release rates, of fertilizer under chapter  
 142 576. This subsection expressly preempts such regulation of  
 143 fertilizer to the state.

144 (b) Each county or municipal government is authorized  
 145 pursuant to ss. 403.9336 and 403.9337 to enforce the Model  
 146 Ordinance for Florida-Friendly Fertilizer Use on Urban  
 147 Landscapes. In addition, any county or municipal government that  
 148 adopted its fertilizer ordinances before July 1, 2011, is  
 149 authorized, as provided in s. 403.9337(4) (a), to enforce such  
 150 ordinances within its respective jurisdiction.

151 ~~(42)~~ ~~(41)~~ Notwithstanding the provisions of s. 287.057(22)  
 152 that require all agencies to use the online procurement system  
 153 developed by the Department of Management Services, the  
 154 department may continue to use its own online system. However,  
 155 vendors utilizing such system shall be prequalified as meeting  
 156 mandatory requirements and qualifications and shall remit fees  
 157 pursuant to s. 287.057(22), and any rules implementing s.  
 158 287.057.

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

161 576.181 Administration; rules; procedure.—

162 (5) (a) Except as otherwise provided in paragraph (b) and  
 163 s. 403.9337(4) (a), the department has exclusive authority to  
 164 regulate the sale, composition, packaging, labeling, retail and  
 165 wholesale distribution, and formulation, including nutrient  
 166 content level and release rates, of fertilizer. This subsection  
 167 expressly preempts such regulation of fertilizer to the state.

168 (b) Each county or municipal government is authorized

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169 pursuant to ss. 403.9336 and 403.9337 to enforce the Model  
170 Ordinance for Florida-Friendly Fertilizer Use on Urban  
171 Landscapes. In addition, any county or municipal government that  
172 adopted its fertilizer ordinances before July 1, 2011, is  
173 authorized, as provided in s. 403.9337(4)(a), to enforce such  
174 ordinances within its respective jurisdiction.

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