

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; exempting certain ordinances  
19 adopted before a specified date from such preemption;  
20 authorizing county and municipal governments to enforce  
21 such ordinances exempt from preemption; providing an  
22 effective date.

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

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

28 403.9336 Legislative findings.—The Legislature finds that

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

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

44 | 403.9337 Model Ordinance for Florida-Friendly Fertilizer  
 45 | Use on Urban Landscapes.—

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 does not apply to any fertilizer  
 83 ordinances of a Any county or municipal government that adopted  
 84 such ordinances before July 1, 2011 ~~its own fertilizer use~~

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

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

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

97 570.07 Department of Agriculture and Consumer Services;  
 98 functions, powers, and duties.—The department shall have and  
 99 exercise the following functions, powers, and duties:

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

101 (a) Fruit and vegetable inspection and grading;

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

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

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

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

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

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

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

128

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

130 adoption of standards and fines in the subject areas of

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

132 department. Any local government enforcing the subject areas of

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

134 the pertinent statutes or any rules adopted by the department

135 pursuant to those statutes.

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

137 department has exclusive authority to regulate the sale,

138 composition, packaging, labeling, retail and wholesale

139 distribution, and formulation, including nutrient content level

140 and release rates, of fertilizer under chapter 576. This

141 subsection expressly preempts such regulation of fertilizer to  
 142 the state.

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

148 ~~(42)~~ ~~(41)~~ Notwithstanding the provisions of s. 287.057(22)  
 149 that require all agencies to use the online procurement system  
 150 developed by the Department of Management Services, the  
 151 department may continue to use its own online system. However,  
 152 vendors utilizing such system shall be prequalified as meeting  
 153 mandatory requirements and qualifications and shall remit fees  
 154 pursuant to s. 287.057(22), and any rules implementing s.  
 155 287.057.

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

158 576.181 Administration; rules; procedure.—

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

165 (b) An ordinance regulating the sale of fertilizer adopted  
 166 by a county or municipal government before July 1, 2011, is  
 167 exempt from this subsection, and the county or municipal  
 168 government is authorized to enforce such ordinance within its

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169 respective jurisdiction.

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