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LEGISLATIVE ACTION

Senate

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House

Senator Evers moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

403.9336 Legislative findings.—The Legislature finds that
the implementation of the Model Ordinance for Florida-Friendly
Fertilizer Use on Urban Landscapes 2010 (~~2008~~), which was
developed by the department in conjunction with the Consumer
Fertilizer Task Force, the Department of Agriculture and
Consumer Services, and the University of Florida Institute of
Food and Agricultural Sciences, will assist in protecting the



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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,
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.—

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

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

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

41 (a) The county or municipal ~~local~~ government has
42 ~~demonstrated, as part of~~ a comprehensive program to address



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43 multiple nonpoint sources of nutrient pollution which is
44 science-based, and economically and technically feasible, and
45 the ~~that~~ additional or more stringent standards ~~than the model~~
46 ordinance are necessary ~~in order~~ to adequately address urban
47 fertilizer contributions to nonpoint source nutrient loading to
48 a water body;

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

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

60 (4) (a) ~~(3)~~ This section does not apply to any fertilizer
61 ordinances of a ~~Any~~ county or municipal government that adopted
62 such ordinances before July 1, 2011 ~~its own fertilizer use~~
63 ordinance before January 1, 2009, is exempt from this section.
64 Ordinances adopted or amended on or after January 1, 2009, must
65 substantively conform to the most recent version of the model
66 fertilizer ordinance and are subject to subsections (1) and (2),
67 as applicable.

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

71 Section 3. Subsection (16) of section 570.07, Florida



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72 Statutes, is amended, present subsection (41) is renumbered as
73 subsection (42), and a new subsection (41) is added to that
74 section, to read:

75 570.07 Department of Agriculture and Consumer Services;
76 functions, powers, and duties.—The department shall have and
77 exercise the following functions, powers, and duties:

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

79 (a) Fruit and vegetable inspection and grading;

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

81 (c) Registration, labeling, inspection, and analysis of
82 commercial stock feeds and commercial fertilizers;

83 (d) Classification, inspection, and sale of poultry and
84 eggs;

85 (e) Registration, inspection, and analysis of gasolines and
86 oils;

87 (f) Registration, labeling, inspection, and analysis of
88 pesticides;

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

91 (h) Weights, measures, and standards;

92 (i) Foods, as set forth in the Florida Food Safety Act;

93 (j) Inspection and certification of honey;

94 (k) Sale of liquid fuels;

95 (l) Licensing of dealers in agricultural products;

96 (m) Administration and enforcement of all regulatory
97 legislation applying to milk and milk products, ice cream, and
98 frozen desserts;

99 (n) Recordation and inspection of marks and brands of
100 livestock; ~~and~~



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101 (o) Regulation of fertilizer, including its sale,
102 composition, packaging, labeling, retail and wholesale
103 distribution, and formulation, including nutrient content level
104 and release rates; and

105 (p)~~(o)~~ All other regulatory laws relating to agriculture.
106

107 In order to ensure uniform health and safety standards, the
108 adoption of standards and fines in the subject areas of
109 paragraphs (a)-(n) is expressly preempted to the state and the
110 department. Any local government enforcing the subject areas of
111 paragraphs (a)-(n) must use the standards and fines set forth in
112 the pertinent statutes or any rules adopted by the department
113 pursuant to those statutes.

114 (41) (a) Except as otherwise provided in paragraph (b), the
115 department has exclusive authority to regulate the sale,
116 composition, packaging, labeling, retail and wholesale
117 distribution, and formulation, including nutrient content level
118 and release rates, of fertilizer under chapter 576. This
119 subsection expressly preempts such regulation of fertilizer to
120 the state.

121 (b) An ordinance regulating the sale of fertilizer adopted
122 by a county or municipal government before July 1, 2011, is
123 exempt from this subsection, and the county or municipal
124 government is authorized to enforce such ordinance within its
125 respective jurisdiction.

126 ~~(42)~~~~(41)~~ Notwithstanding the provisions of s. 287.057(22)
127 that require all agencies to use the online procurement system
128 developed by the Department of Management Services, the
129 department may continue to use its own online system. However,



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130 vendors utilizing such system shall be prequalified as meeting
131 mandatory requirements and qualifications and shall remit fees
132 pursuant to s. 287.057(22), and any rules implementing s.
133 287.057.

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

136 576.181 Administration; rules; procedure.-

137 (5) (a) Except as otherwise provided in paragraph (b), the
138 department has exclusive authority to regulate the sale,
139 composition, packaging, labeling, retail and wholesale
140 distribution, and formulation, including nutrient content level
141 and release rates, of fertilizer. This subsection expressly
142 preempts such regulation of fertilizer to 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 Section 5. This act shall take effect July 1, 2011.

149
150 ===== T I T L E A M E N D M E N T =====

151 And the title is amended as follows:

152 Delete everything before the enacting clause
153 and insert:

154 A bill to be entitled
155 An act relating to fertilizer; amending s. 403.9336,
156 F.S.; revising legislative findings relating to
157 implementation of the Model Ordinance for Florida-
158 Friendly Fertilizer Use on Urban Landscapes; updating



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159 a reference to the version of the model ordinance;
160 amending s. 403.9337, F.S.; revising the authority of
161 county and municipal governments to adopt fertilizer
162 standards that are in addition to or more stringent
163 than standards of the model ordinance; requiring
164 county and municipal governments to report the
165 adoption of such standards to the Department of
166 Environmental Protection; providing for applicability
167 of specified provisions; amending ss. 570.07 and
168 576.181, F.S.; requiring the Department of Agriculture
169 and Consumer Services to regulate the sale,
170 composition, packaging, labeling, retail and wholesale
171 distribution, and formulation of fertilizer;
172 preempting such regulation of fertilizer to the state;
173 exempting certain ordinances adopted before a
174 specified date from such preemption; authorizing
175 county and municipal governments to enforce such
176 ordinances that are exempt from preemption; providing
177 an effective date.