

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Committee

BILL: SPB 7134

INTRODUCER: For consideration by the Budget Committee

SUBJECT: Department of Agriculture and Consumer Services

DATE: March 28, 2011

REVISED: 3/31/11

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|------------------|-----------|--------------------|
| 1. | <u>Blizzard</u> | <u>Meyer, C.</u> | <u></u> | <u>Pre-meeting</u> |
| 2. | <u></u> | <u></u> | <u></u> | <u></u> |
| 3. | <u></u> | <u></u> | <u></u> | <u></u> |
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I. Summary:

This bill consolidates the Division of Dairy Industry into the Division of Food Safety within the Department of Agriculture and Consumer Services (DACS). Inspections of dairy farms, milk plants, and milk product plants and other specified functions of the Division of Dairy Industry will be conducted by the Division of Food Safety.

The bill transfers authority for the regulation and enforcement of the state Lemon Law and the price gouging program entirely to the Department of Legal Affairs (DLA). Currently, a portion of these activities is conducted by the Division of Consumer Services within the DACS.

The bill requires review and approval by the Legislative Budget Commission of any increase in the citrus box tax rate by the Florida Citrus Commission.

The consolidation of the Division of Dairy Industry into the Division of Food Safety provides a recurring cost savings of \$239,496 in general revenue. The elimination of activities by the Division of Consumer Services relating to the Lemon Law and the price gouging program provides a recurring cost savings to the General Inspection Trust Fund within the DACS of \$386,415.

This bill substantially amends the following sections of the Florida Statutes: 20.14, 320.90, 501.160, 570.18, 570.29, 570.40, 570.41, 570.50, 601.15, 681.103, 681.108, 681.109, 681.1096, 681.110, 681.112, 681.114, 681.117 and 681.118.

This bill repeals section 681.102(7), Florida Statutes.

II. Present Situation:

Division of Dairy

The Division of Dairy Industry conducts the dairy regulatory program under ch. 502 and 503, F.S. The division is responsible for the inspection of dairy farms, including inspection of dairy cattle, milk plants, milk product plants, and facilities engaged in the manufacture and distribution of frozen desserts. The division collects and tests samples from dairy farms and processing plants for compliance with established product quality standards. In addition, the division regulates the interstate shipment of milk. Currently, the division is funded by general revenue and trust funds. Dairy inspections and license fees generate revenue of approximately \$20,250 annually.

Lemon Law

The state Motor Vehicle Warranty Enforcement Act, known as the Lemon Law, applies to new or demonstration motor vehicles purchased or leased in Florida for personal use that has a manufacturing defect or non-conformity which substantially impairs the vehicle's value, use, or safety. The Lemon Law period ends two years after the date of original delivery of the motor vehicle.

The Division of Consumer Services currently has the responsibility under ch. 681, F.S., for maintaining a toll free number that consumers can contact to obtain information regarding the consumer's rights and obligations. The division reviews each manufacturer's certified procedure at least once a year and prepares an annual report. In addition to adopting rules to implement s. 681.108, F.S., the division is responsible for screening all requests for eligibility prior to arbitration before the Florida New Motor Vehicle Arbitration Board. The Florida New Motor Vehicle Arbitration Board is established within the Department of Legal Affairs to resolve warranty disputes between consumers and new motor vehicle manufacturers under the Lemon Law.

Pursuant to s. 320.90, F.S., the division also develops and distributes a free motor vehicle consumer's rights pamphlet in order to educate consumers. The pamphlet contains information relating to odometer fraud and provides a summary of the rights and remedies available to all purchasers of motor vehicles.

Price Gouging

Section 501.160(8), F.S., prohibits the imposition of unconscionable prices in the rental or sale of essential commodities, commonly known as price gouging, during a declared state of emergency. Currently, the DLA, the office of the state attorney, and the DACS have concurrent jurisdiction to enforce violations of this law. This tends to create confusion among consumers during a declared state of emergency, regarding which state agency to contact to file complaints. Many consumers end up filing complaints with both the DLA and the DACS. This action requires both departments to initiate investigations, which results in duplicative activities.

Citrus Box Tax

The Florida Citrus Commission (commission) serves in the capacity of a board of directors for the Florida Department of Citrus (FDOC). The commission oversees and guides the activities of the FDOC. It is responsible for setting the annual amount of the excise tax as well as quality standards for all citrus grown, packed or processed in Florida. Upon an affirmative vote of a majority of its members and by an order entered by it prior to November 1 of any year, the commission may set the tax rates up to the maximum rates specified in s. 601.15, F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 20.14, F.S., to remove reference to the Division of Dairy Industry as a separate division within the DACS.

Section 2 amends s. 320.90, F.S., to transfer responsibility for the development and distribution of the motor vehicle consumer's rights pamphlet from the DACS to the DLA.

Section 3 amends s. 501.160, F.S., to remove authority of the DACS to enforce the law prohibiting price gouging. The DLA and the office of the state attorney continue to have responsibility for the enforcement of the prohibition.

Section 4 reenacts s. 501.18, F.S., relating to the organization of the DACS.

Section 5 amends s. 570.20, F.S., to remove the time limitations on provisions authorizing funds in the General Inspection Trust Fund to be used for programs operated by the DACS.

Section 6 amends s. 570.29, F.S., to eliminate the Division of Dairy Industry and makes a technical correction to establish the Division of Licensing as a division within the DACS.

Section 7 repeals ss. 570.40 and 570.41, F.S., relating to the powers and duties of the Division of Dairy Industry.

Section 8 amends s. 570.50, F.S., adding the inspection of dairy farms, milk plants, milk product plants and other specified functions to the duties of the Division of Food Safety within the DACS.

Section 9 amends s. 601.15, F.S., requiring review and approval by the Legislative Budget Commission of any proposal by the Florida Citrus Commission to increase the box tax rate.

Section 10 repeals s. 681.102(7), F.S., relating to the definition of the term "division."

Sections 11 through 20 amend ss. 681.103, 681.108, 681.109, 681.1095, 681.1096, 681.110, 681.112, 681.114, 681.117, and 681.118, F.S., providing for the Department of Legal Affairs, rather than the Division of Consumer Services, to enforce the state Lemon Law and consolidates enforcement duties under the Motor Vehicle Warrant Enforcement Act within the Department of Legal Affairs.

Section 21 provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The current consumer fee of \$2 collected from motor vehicle dealers for administration of the Lemon Law will continue to be deposited into the Motor Vehicle Warranty Trust Fund within the DLA. One-fourth of this fee will no longer be transferred from the Motor Vehicle Warranty Trust Fund within the DLA to the General Inspection Trust Fund within the DACS for services performed to carry out the Lemon Law.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Division of Dairy Industry

Consolidation of the Division of Dairy Industry into the Division of Food Safety within the DACS provides a recurring cost savings of \$239,465 in general revenue. Inspections of dairy farms, milk plants, milk product plants, and other specified functions of the Division of Dairy Industry will continue to be conducted by the Division of Food Safety.

Lemon Law and Price Gouging

Consolidation of the Lemon Law and Price Gouging Programs into the Department of Legal Affairs provides a recurring cost savings of \$386,415 in the General Inspection Trust Fund within the DACS. In addition, implementation of this bill provides a recurring general revenue savings of \$58,667. Recurring revenues within the General Inspection Trust Fund will be reduced by \$248,617.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
