

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 Committee on Agriculture

BILL: CS/SB 1630

INTRODUCER: Agriculture Committee; and Senator Montford

SUBJECT: Department of Agriculture and Consumer Services

DATE: March 21, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Becker</u>	<u>AG</u>	<u>Fav/CS</u>
2.	<u>Price</u>	<u>Eichin</u>	<u>TR</u>	<u>Pre-meeting</u>
3.	<u> </u>	<u> </u>	<u>CA</u>	<u> </u>
4.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>
5.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
6.	<u> </u>	<u> </u>	<u> </u>	<u> </u>

I. Summary:

CS/SB 1630 addresses issues relating to agriculture and certain powers and duties of the Department of Agriculture and Consumer Services (department). It:

- Reorganizes ch. 570, F.S., the department’s general authorizing statute, into five separate parts;
- Standardizes penalty language in the new part V which is cross referenced in the various statutes enforced by the department;
- Removes obsolete language to ensure accuracy;
- Adds a representative of the department to the Joint Task Force on State Agency Law Enforcement Communications;
- Provides that certain acts relating to livery services are unfair or deceptive regulatory acts or practices;
- Revises requirements for registration and distribution of discontinued pesticides;
- Updates the department’s certification and licensure processes to include applying online;
- Expands the authority of the Florida Forest Service, under certain conditions, to grant leases, permits, privileges, and concessions for the use of state forest lands to include *any lands* leased by or assigned to the Florida Forest Service for management purposes;
- Authorizes the department to impose civil penalties for violations relating to private security, investigative, and repossession services;
- Removes security bond and certificate of deposit requirements for fertilizer license applicants, since the department has sufficient authority to impose fines or to revoke licensure for licensees who do not pay inspection fees;
- Adds additional criteria to determine whether commercial feed is adulterated;
- Simplifies the information required to register as a seed dealer;

- Revises food permit requirements, associated fees, and renewal procedures;
- Exempts manually operated vending stands serviced by the Department of Education's Division of Blind Services from permitting requirements;
- Authorizes the department to close a food facility if it finds it poses an immediate danger or threat to public health, safety, and welfare;
- Authorizes the department to inspect aquaculture facilities and to analyze their food samples;
- Repeals a pilot program and permit for the use of Australian pine trees as windbreaks for citrus groves; and
- Creates new requirements for qualifying as a "non-dealer" in limited sales of dressed poultry.

II. Present Situation:

Chapter 570, F.S., Revision

Chapter 570, F.S., is the primary authorizing chapter for the Department of Agriculture and Consumer Services (department). This chapter establishes the functions, powers, and duties of the department, as well as the Commissioner of Agriculture. It creates the divisions and offices within the department and their functions and duties. Over the years, ch. 570, F.S., has become a general "catch-all" for statutory language that does not clearly fall within another chapter. This bill reorganizes ch. 570, F.S., to promote accuracy and efficiency throughout the department.

Penalty Consolidation

Currently, penalties are located within specific statutory sections that contain the regulation being enforced. In an effort to be more consistent, as well as consumer friendly, the department has recommended consolidating its fines and penalties into one part of the statute and placing cross-references within the specific subject matter statutes to standardize penalty language.

Agricultural Water Policy

The Office of Agricultural Water Policy was established in 1995, in s. 570.074, F.S. The purpose of the office is to facilitate communications among federal, state, local agencies, and the agricultural industry on water quantity and water quality issues involving agriculture.¹ The bill requires the office to enforce and implement the provisions of ch. 582, F.S., which establishes the soil and water conservation districts. This duty is currently performed by the department's Division of Agricultural Environmental Services.

Division of Food Safety

The Division of Food Safety is responsible for assuring the public of a safe, wholesome and properly represented food supply. This is accomplished through permitting and inspection of food establishments, inspection of food products, and through specialized laboratory analyses on a variety of food products sold or produced in the state. The division monitors food from farm gate, through processing, and distribution to the retail point of purchase.

The division is charged with administration and enforcement of food, poultry, and egg laws, and also provides support in the enforcement of other food safety laws. In addition to regulatory

¹ <http://www.freshfromflorida.com/Divisions-Offices/Agricultural-Water-Policy>

surveillance and enforcement, the division evaluates consumer complaints related to food.² The bill would authorize the division to also inspect aquaculture facilities and to analyze food samples from these facilities.

Office of Energy

The Office of Energy is the primary organization for state energy and climate change programs and policies. The office works cooperatively with other state entities, including the Florida Public Service Commission and the Florida Energy Consortium, to develop state energy and climate change policies and programs.³ During the 2011 Legislative Session, the Office of Energy was transferred from the Governor's Office to the department. However, the Office of Energy was never specifically established in ch. 570, F.S.

Conservation Easements and Agreements

A conservation easement is a perpetual, undivided interest in property that may be created in a variety of ways. Section 570.71(12), F.S., authorizes the department to use funds from the following sources to implement certain conservation easements and agreements:

- State funds;
- Federal funds;
- Other governmental entities;
- Nongovernmental organizations; and
- Private individuals.

The bill specifies that the funds described above can be used for administrative and operating expenses related to appraisals, mapping, title process, personnel, and other real estate expenses.

Pesticide Regulation

The Bureau of Pesticides provides comprehensive pesticide regulatory programs that respond to state needs by ensuring the protection of public health and the environment. The bureau is responsible for registering pesticide products sold and distributed in Florida. The bureau also conducts scientific reviews to determine whether human health and the environment may be adversely affected when pesticides are used under Florida conditions and in accordance with label directions and applicable regulations.⁴

The Pesticide Registration Section registers federally accepted pesticides that are distributed, sold, or offered for sale in Florida as stipulated in ch. 487, F.S., and ch. 5E-2, Florida Administrative Code. The law requires biennial registration renewal for each pesticide product sold or distributed in Florida.⁵

² <http://www.freshfromflorida.com/Divisions-Offices/Food-Safety>

³ <http://www.freshfromflorida.com/Divisions-Offices/Energy>

⁴ <http://www.freshfromflorida.com/Divisions-Offices/Agricultural-Environmental-Services>

⁵ <http://www.freshfromflorida.com/Divisions-Offices/Agricultural-Environmental-Services/Bureaus-and-Sections2/Bureau-of-Pesticides/Product-Registration-Procedures>

Agricultural Fertilizers, Feed, and Seed

The Bureau of Compliance Monitoring ensures the more than 3,000 distributors of feed, seed, and fertilizer products in Florida are registered or licensed and that their products meet current regulatory standards and label guarantees.⁶ The Agricultural Feed, Seed, and Fertilizer Advisory Council is a 15 member statutorily charged stakeholder advisory council to the department which was created in 2012 and convened in 2013. The council advises the department regarding actions to be taken with respect to the regulation and enforcement of agricultural feed, seed, and fertilizer. Stakeholders include the department, the University of Florida's Institute of Food and Agricultural Sciences, and the aquaculture, dairy production, citrus, seed, feed, fertilizer, beef cattle, poultry, field/row crops, and vegetable industries.⁷

Plant Industry

The Division of Plant Industry works to detect, intercept, and control plant and honey bee pests that threaten Florida's native and commercially grown plants and agricultural resources.⁸ In 2008, the Legislature established a five-year pilot program within the department to permit the planting of *Casuarina cunninghamiana* (Australian pine trees) as a windbreak for commercial citrus groves growing fresh fruit in Indian River, St. Lucie, and Martin counties.⁹ The purpose of the pilot program was to determine if the use of the trees as an agricultural pest and disease windbreak poses any adverse environmental consequences. The five-year pilot project ended in 2012. A final report was issued that indicated that *Casuarina cunninghamiana* used as windbreaks did not demonstrate any invasive tendencies.

Florida Forest Service

The Florida Forest Service's mission is to protect and manage the forest resources of Florida. Wildfire prevention and suppression are key components of its efforts to protect homeowners from the threat of damage in a natural, fire-dependent environment. In addition to managing over one million acres of state forests for multiple public uses including timber, recreation, and wildlife habitat, the service also provides services to landowner throughout the state with technical information and grant programs.¹⁰

Goethe and Withlacoochee State Forests

Section 589.081, F.S., requires the Florida Forest Service to pay 15 percent of the gross receipts from Withlacoochee State Forest and the Goethe State Forest to each fiscally constrained county within these forests. The funds must be equally divided between the board of county commissioners and the school board of each fiscally-constrained county. The bill transfers this language to s. 589.08, F.S., in the department's statutory reorganization and deletes reference to the Withlacoochee State Forest because it is not located in any fiscally constrained counties.

⁶ <http://www.freshfromflorida.com/Divisions-Offices/Agricultural-Environmental-Services/Bureaus-and-Sections2/Bureau-of-Compliance-Monitoring>

⁷ <http://consensus.fsu.edu/AFSFAC/index.html>

⁸ <http://www.freshfromflorida.com/Divisions-Offices/Plant-Industry>

⁹ Section 581.091(5), F.S.

¹⁰ <http://www.freshfromflorida.com/Divisions-Offices/Florida-Forest-Service>

Classification and Sale of Eggs and Poultry

Section 583.01, F.S., currently defines the term “dealer” to mean any person, firm, or corporation, including a producer, processor, retailer, or wholesaler, that sells, offers for sale, or holds for the purpose of sale in this state 30 dozen or more eggs or its equivalent in any one week, or in excess of 100 pounds of dressed poultry in any one week. Egg and poultry dealers are regulated under this chapter and are required to possess a valid food permit. The bill creates limited sale poultry requirements to benefit operators of small poultry farms by correcting a long-standing discrepancy between state law and federal law regarding what constitutes a “dealer.” For the past several years, the department has been working with small farmers to provide a level of economic and regulatory relief relative to production and sale of limited poultry. This change will establish more realistic numbers for a “non-dealer.”

Unfair or Deceptive Acts or Practices/Livery Transit Services

Generally, ch. 501, F.S., establishes laws governing consumer protection, unfair methods of competition, and unconscionable, deceptive, and unfair trade practices, and the protection of the public and legitimate businesses from those who engage in such practices in the conduct of any trade or commerce.¹¹ Part VI of ch. 501, F.S., consisting of ss. 501.975, 501.976, and 501.98, F.S., currently lists numerous acts related to motor vehicles that constitute an unfair or deceptive act or practice actionable under the Florida Deceptive and Unfair Trade Practices Act.

Livery services are undergoing changes with respect to models most often associated with the provision of transportation to individuals, such as by taxi. Technological advances are resulting in new methods for consumers to arrange and pay for transportation, including software applications that make use of mobile smartphone applications, Internet web pages, and email and text messages.

In some geographic locations, local regulatory entities are requiring businesses that utilize these new technologies and methods for providing transportation to consumers to impose minimum fares¹² and minimum wait times between the reservation and delivery of the livery transit service.¹³

The Federal Trade Commission has noted:

These technologies and methods may be more responsive to consumer demand, may promote a more efficient allocation of resources (e.g., vehicles and drivers) to consumers, may expand demand for passenger vehicle transportation services, and may reduce consumer consumers’ transaction costs in paying for such services.

We believe that unwarranted restrictions on competition should be avoided, and any restrictions on competition that are implemented should

¹¹ s. 501.202, F.S.

¹² See, i.e.: <http://www.usnews.com/news/blogs/washington-whispers/2012/08/24/no-one-wants-to-take-credit-for-bers-50-minimum-in-tampa> and http://news.cnet.com/8301-1023_3-57589869-93/miami-officials-propose-law-changes-to-allow-uber-service/. (Last visited March 21, 2014.)

¹³ See, i.e.: http://blogs.miaminewtimes.com/cultist/2013/09/luxury_car_app_uber_takes_miam.php. (Last visited March 21, 2014.)

be no broader than necessary to address legitimate subjects of regulations, such as safety and consumer protection, and narrowly crafted to minimize any potential anticompetitive impact.¹⁴

III. Effect of Proposed Changes:

Section 1 amends s. 282.709, F.S., to add a representative of the department to the Joint Task Force on State Agency Law Enforcement Communications. This task force advises the Department of Management Services of member-agency needs relating to the planning, designing, and establishment of the statewide radio communication system.

Section 2 transfers and renumbers s. 570.0741, F.S., pertaining to the department's Office of Energy, as s. 377.805, F.S. It also deletes an obsolete web posting date.

Section 3 amends s. 379.361, F.S., to require a person to retake an educational seminar when renewing an Apalachicola Bay oyster harvesting license.

Section 4 amends s. 487.041, F.S., to revise requirements for registration and distribution of discontinued pesticides.

Section 5 amends s. 487.046, F.S., to update methods for filing pesticide applicator license applications.

Section 6 amends s. 487.048, F.S., to update methods for filing pesticide dealer's license applications.

Section 7 amends s. 487.159, F.S., to delete requirements for filing statements claiming damages and injuries from pesticide applications. It updates reporting requirements for pesticide applicators who observe unreasonable adverse effects of restricted-use pesticides.

Section 8 amends s. 487.160, F.S., to revise recordkeeping requirements for licensed private applicators.

Section 9 amends s. 487.2031, F.S., to revise the definition of "Material Safety Data Sheet" to "Safety Data Sheet."

Section 10 amends s. 487.2051, F.S., to revise requirements for pesticide fact sheets and safety data sheets.

Section 11 amends s. 493.6120, F.S., pertaining to private investigative, security, and repossession services. It authorizes the department to impose certain civil penalties for violations and provides a cross reference to penalties in the newly created s. 570.971, F.S.

¹⁴ Federal Trade Commission letter to District of Columbia Taxicab Commission, June 7, 2013, at 3.. On file in the Senate Transportation Committee.

Section 12 transfers and renumbers s. 570.545, F.S., pertaining to unsolicited goods, as s. 501.0113, F.S.

Section 13 amends s. 500.03, F.S., to add a cross reference to the definition of “food establishment.” This will exempt the Department of Education’s Division of Blind Services from obtaining permits from the department for vending machines it services at Department of Transportation rest areas. It will also exempt the Department of Transportation.

Section 14 amends s. 500.12, F.S., to revise criteria for certain food permit exemptions. It requires food establishments and retail food stores to obtain a food permit before beginning operation and clarifies that such permits are not transferable. It requires the department to adopt a food permit fee schedule by rule and updates terminology (occupational license to business tax certificate).

Section 15 amends s. 500.121, F.S., to conform it to changes made by this bill to the Florida Food Safety Act. It:

- Clarifies that the fine for violating the provisions of ch. 500, F.S., is an administrative fine to make it consistent with the newly created penalty section of the bill, s. 570.971, F.S.;
- Reduces a fine for mislabeling the country of origin of a food from \$10,000 per violation to \$5,000;
- Revises the time limit for payment of fines from 15 days to 21 days;
- Provides for permit revocation for failure to pay a fine;
- Authorizes the department to immediately close food establishments that fail to comply with ch. 500, FS., and are deemed a severe and immediate threat to public health;
- Provides a procedure for the department to follow after issuing a final order to close a food establishment;
- Provides penalties if a person defaces or removes a closed-for-operation sign or if the owner or operator to resists closure; and
- Authorizes the department to adopt rules to administer this section.

Section 16 amends s. 500.147, F.S., to authorize the department to inspect and have free access to any food establishment’s food records. This will allow the department to trace food products in the event of a food-borne illness outbreak or to identify an adulterated or misbranded food item.

Section 17 amends s. 500.165, F.S., pertaining to shipments of food items, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 18 amends s. 500.172, F.S., to allow department employees access to food-processing or food storage areas if there has been probable cause of a food safety violation.

Section 19 amends s. 501.019, F.S., pertaining to penalties imposed for violations of health studio laws, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 20 amends s. 501.059, F.S., pertaining to telephone solicitation, to provide cross references to penalties in the newly created s. 570.971, F.S. It also authorizes the department to adopt rules to implement this section.

Section 21 amends s. 501.922, F.S., pertaining to violations of the Antifreeze Act of 1978, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 22 creates s. 501.977, F.S., to provide that it is an unfair or deceptive regulatory act or practice for a special district to:

- Restrict the right of the public to freely bargain for lawful livery transit services, by establishing a minimum or maximum fare, or by imposing a minimum wait time between the reservation and delivery of the livery transit service, or
- Create classifications within each type of livery service, and to fix or approve zones, rates, or fares for such classifications, which apply differently to individuals and businesses that compete with each other to provide similar services.

Section 23 transfers and renumbers s. 570.42, F.S., pertaining to the Dairy Technical Council, as s. 502.301, F.S. It amends the new section to make technical changes and to correct a cross reference.

Section 24 creates part I of ch. 570, F.S., entitled “General Provisions.”

Section 25 renumbers s. 570.14, F.S., pertaining to the official seal that the department uses in official acts, as s. 570.031, F.S.

Section 26 renumbers s. 570.18, F.S., pertaining to the authority of the department to organize its work and to create maximum efficiency, as s. 570.041, F.S.

Section 27 renumbers s. 570.16, F.S., pertaining to penalties for interfering with department employees in the performance of their duties, as s. 570.051, F.S.

Section 28 amends s. 570.07, F.S., pertaining to the duties and responsibilities of the department, to correct a cross reference.

Section 29 renumbers s. 570.17, F.S., pertaining to responsibilities between the department and the University of Florida’s extension service and experiment stations, as s. 570.081, F.S.

Section 30 renumbers s. 570.531, F.S., pertaining to the Marketing Improvements Working Capital Trust Fund, as s. 570.209, F.S.

Section 31 amends s. 570.23, F.S., pertaining to the State Agricultural Advisory Council, to correct a cross reference and to delete an obsolete date.

Section 32 renumbers s. 570.0705, F.S., pertaining to advisory committees, as s. 570.232, F.S.

Section 33 creates part II of ch. 570, F.S., entitled “Program Services.”

Section 34 amends s. 570.36, F.S., to change “laboratories” to “laboratory” since there is currently only one laboratory.

Section 35 amends s. 570.44, F.S., to delete a reference to the Pesticide Review Council which was abolished in 2013. It also removes responsibilities over the soil and water conservation districts from the Division of Agricultural Environmental Services, as Section 61 of the bill directs the Office of Agricultural Water Policy to enforce and implement the provisions of ch. 582, F.S., and any rules relating to soil and water conservation.

Section 36 amends s. 570.45, F.S., to delete a cross reference. This amendment removes the duties of overseeing soil and water conservation districts from the director of the Division of Agricultural Environmental Services.

Section 37 amends s. 570.451, F.S., to correct a cross reference and establish that the meetings, powers and duties, procedures, and recordkeeping of the Agricultural Feed, Seed, and Fertilizer Advisory Council be kept pursuant to s. 570.232, F.S.

Section 38 amends s. 570.50, F.S., to add aquaculture products to the list of items the Division of Food Safety may inspect and analyze. It also provides enforcement authority for aquaculture regulations.

Section 39 amends s. 570.51, F.S., to add ch. 597, F.S., (aquaculture) to the chapters that the Division of Food Safety has the authority to enforce.

Section 40 amends s. 570.543, F.S., to remove a reference to s. 570.0705, F.S., and establish that the meetings, powers and duties, procedures, and recordkeeping of the Florida Consumers’ Council must be kept pursuant to s. 570.232, F.S.

Section 41 renumbers s. 570.073, F.S., pertaining to the Office of Agricultural Law Enforcement, as s. 570.65, F.S.

Section 42 renumbers s. 570.074, pertaining to the Office of Agricultural Water Policy, as s. 570.66, F.S. It also directs the office to provide oversight of the soil and water conservation districts, provisions of ch. 582, F.S., and rules relating to soil and water conservation.

Section 43 creates s. 570.67, F.S., to create the Office of Energy within the department. It provides for a senior manager, to be appointed by the Commissioner of Agriculture, and provides for duties of the office.

Section 44 renumbers s. 570.951, F.S., pertaining to the Florida Agriculture Center and Horse Park, as s. 570.681, F.S.

Section 45 renumbers s. 570.952, F.S., pertaining to the Florida Agriculture Center and Horse Park Authority, as s. 570.685, F.S. It amends the new section to correct cross references and to remove obsolete dates.

Section 46 renumbers s. 570.953, F.S., pertaining to confidentiality of donors to the Agriculture Center and Horse Park Authority, as s. 570.686, F.S.

Section 47 renumbers s. 570.902, F.S., pertaining to definitions for the purpose of the department's direct-support organizations, as s. 570.69, F.S. It amends the new section to correct cross references.

Section 48 renumbers s. 570.903, F.S., pertaining to direct-support organizations, as s. 570.691, F.S.

Section 49 renumbers s. 570.901, F.S., pertaining to the Florida Agricultural Museum, as s. 570.692, F.S.

Section 50 renumbers s. 570.91, F.S., pertaining to the Florida Agriculture in the Classroom program, as s. 570.693, F.S.

Section 51 creates part III of ch. 570, F.S., entitled "Agricultural Development."

Section 52 amends s. 570.71, F.S., to remove an obsolete date for the initiation of the conservation easements and agreements program. It authorizes funds to be charged to the Conservation and Recreation Lands Program Trust Fund and used for all related real estate costs, including administrative and operating expenses related to appraisals, mapping, title process, personnel, and other real estate expenses.

Section 53 transfers and renumbers s. 570.241, F.S., pertaining to the Agricultural Economic Development Act, as s. 570.73, F.S.

Section 54 renumbers s. 570.242, F.S., pertaining to definitions relating to the Agricultural Economic Development Act, as s. 570.74, F.S. It amends the new section to delete the terms "Commissioner" and "Department."

Section 55 renumbers s. 570.243, F.S., pertaining to the department's Agricultural Economic Development Program, as s. 570.75, F.S.

Section 56 renumbers s. 570.244, F.S., pertaining to the powers and duties of the department, as s. 570.76, F.S.

Section 57 renumbers s. 570.245, F.S., pertaining to the department's interaction with other economic development agencies and groups, as s. 570.77, F.S.

Section 58 renumbers s. 570.246, F.S., pertaining to funds appropriated to agricultural economic development, as s. 570.78, F.S.

Section 59 renumbers s. 570.247, F.S., pertaining to promulgation of rules to implement the agricultural economic development program, as s. 570.79, F.S. It amends the new section to remove an obsolete date.

Section 60 renumbers s. 570.248, F.S., pertaining to the Agricultural Economic Development Project Review Committee, as s. 570.81, F.S.

Section 61 renumbers s. 570.249, F.S., pertaining to Agricultural Economic Development Program disaster loans, grants, and aid, as s. 570.82, F.S.

Section 62 renumbers s. 570.9135, F.S., pertaining to the Beef Market Development Act, as s. 570.83, F.S. It amends the new section to correct cross references.

Section 63 renumbers s. 570.954, F.S., pertaining to the farm-to-fuel initiative, as s. 570.841, F.S.

Section 64 renumbers s. 570.96, F.S., pertaining to agritourism, as s. 570.85, F.S.

Section 65 renumbers s. 570.961, F.S., pertaining to definitions clarifying agritourism, as s. 570.86, F.S. It amends the new section to correct a cross reference.

Section 66 renumbers s. 570.962, F.S., pertaining to the impact of agritourism activities on land classification for purposes of ad valorem taxation, as s. 570.87, F.S.

Section 67 renumbers s. 570.963, F.S., pertaining to liability for agritourism operators, as s. 570.88, F.S. It amends the new section to correct a cross reference.

Section 68 renumbers s. 570.964, F.S., pertaining to notice requirements and the notice language that must be posted and given to patrons when engaging in agritourism activities, as s.570.89, F.S. It makes technical revisions to the new section.

Section 69 creates part IV of ch. 570, F.S., entitled “Agricultural Water Policy.”

Section 70 renumbers s. 570.075, F.S., pertaining to water supply agreements with landowners in rural areas, as s. 570.916, F.S.

Section 71 renumbers s. 570.076, F.S., pertaining to the department’s Environmental Stewardship Certification Program, as s. 570.921, F.S. It also corrects a cross reference.

Section 72 renumbers s. 570.085, F.S., pertaining to the department’s agricultural water conservation program and agricultural water supply planning, as s. 570.93, F.S.

Section 73 renumbers s. 570.087, F.S., pertaining to best management practices for wildlife, as s. 570.94, F.S.

Section 74 creates part V of ch. 570, F.S., entitled “Penalties.”

Section 75 creates s. 570.971, F.S., to establish levels of administrative and civil penalties for violations of department regulations. It provides applicability and authorizes the department to adopt rules.

Section 76 amends s. 576.021, F.S., to revise procedures for filing applications to distribute fertilizer. The change would allow for online certification and licensure.

Section 77 amends s. 576.031, F.S., to reduce the number of labels from five to two which registrants would have to provide a purchaser in order to distribute bulk fertilizer.

Section 78 amends s. 576.041, F.S., to delete a requirement that fertilizer license applicants provide surety bonds or certificates of deposit to ensure payment of inspection fees.

Section 79 amends s. 576.051, F.S., to revise the period of time a fertilizer sample must be retained from 90 days to 60 days.

Section 80 amends s. 576.061, F.S., pertaining to plant nutrient investigational allowances, deficiencies, and penalties, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 81 amends s. 576.071, F.S., to revise criteria for determining the commercial value of fertilizer nutrients. This change allows the department to utilize additional data sources, such as surveys of the Florida fertilizer industry, to obtain commercial values.

Section 82 amends s. 576.087, F.S., to revise antisiphon requirements for irrigation systems in response to constant changes in technology of these devices.

Section 83 amends s. 576.101, F.S., to remove the probationary status of fertilizer licensees whose fertilizer samples fail to meet minimum performance level requirements.

Section 84 amends s. 578.08, F.S., to revise application requirements and registration requirements for the sale of feed. It allows registrants to apply online or by paper application. It also adds categories in the fees section for businesses that sell the least amount of seed to make the process of registration easier and to entice more small businesses to register with the department.

Section 85 amends s. 580.036, F.S., to re-insert a reference to the Commercial Feed Technical Council which a statutory revisers bill mistakenly removed in the 2013 Session.

Section 86 amends s. 580.041, F.S., to provide the option for online license applications for distributors of commercial feed and feedstuff.

Section 87 amends s. 580.071, F.S., to revise criteria for adulteration of commercial feed and feedstuff to include national standards established by the Association of American Feed Control Officials. This will make the definition of adulteration more consistent with national standards.

Section 88 amends s. 581.091, F.S., to delete a program for Australian pines used as windbreaks in citrus groves. The five-year pilot project ended in 2012 and a final report was issued.

Section 89 amends s. 581.131, F.S., to revise the timeframe from 60 days to 30 days before the annual renewal date in which the department must provide notices for registration renewal to

nurserymen, stock dealers, agents, or plant brokers. This will bring the notice of need to renew into alignment with standards for billing used in the private sector.

Section 90 amends s. 583.01, F.S., to revise the definition of “dealer” to create limited sale poultry requirements. This change will make state law closer to federal laws for a “non-dealer.”

Section 91 transfers and renumbers s. 570.38, F.S., pertaining to the Animal Industry Technical Council, as s. 585.008, F.S. It amends the new section to make technical changes and to correct a cross reference.

Section 92 amends s. 589.08, F.S., to clarify the distribution of 15 percent of the gross receipts received by the Florida Forest Service from Goethe State Forest to fiscally constrained counties.

Section 93 amends s. 589.011, F.S., to provide conditions under which the Florida Forest Service is authorized to grant the use of certain lands. It limits liability for lessees of specified lands and provides criteria by which the Florida Forest Service determines certain fees, rentals, and charges.

Section 94 amends s. 589.20, F.S., to authorize the Florida Forest Service to cooperate with water management districts, municipalities, and other governmental entities in the designation and dedication of lands suitable for forestry purposes.

Section 95 amends s. 590.02, F.S., to rename the Florida Center for Wildfire and Forest Resources Management Training as the Withlacoochee Training Center.

Section 96 amends s. 590.125, F.S., to clarify requirements for non-certified burning and smoldering.

Section 97 transfers and renumbers s. 570.0725, F.S., pertaining to food recovery, as s. 595.420, F.S.

Section 98 amends s. 597.003, F.S., to authorize the department to provide training as necessary to lessees of certain lands.

Section 99 amends s. 597.004, F.S., to require an applicant for an aquaculture certificate to submit a certificate of training, if required.

Section 100 amends s. 597.020, F.S., to authorize the department to adopt training requirements for shellfish processors, by rule. It also provides a cross reference to penalties in the newly created s. 570.971, F.S.

Section 101 transfers and renumbers s. 570.481, F.S., pertaining to fruit and vegetable inspection fees and penalties, as s. 603.011, F.S.

Section 102 transfers and renumbers s. 570.55, F.S., pertaining to the Florida Tropical or Subtropical Fruit and Vegetables Sales Law, as s. 603.211, F.S.

Section 103 amends s. 604.16, F.S., to provide an exemption from the provisions of ss. 604.15– 604.34, F.S., for a dealer in agricultural products to the extent that the dealer purchases agricultural products from a producer owned by the exact same person as the dealer, owned solely by the dealer, or who solely owns the dealer. The dealer is not exempt from the recordkeeping requirements of s. 604.22(2), F.S.

Section 104 amends s. 604.22, F.S., pertaining to penalties for dealers in agricultural products, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 105 repeals the following sections:

Section 487.172, F.S., requires an educational program for organotin anti-fouling paints. It is obsolete since these products are now restricted-use pesticides, which are rarely used, and education is covered in the certification process.

Section 500.301, F.S., pertains to standards of enrichment for grain products. The department has adopted codes of federal regulation by reference in rule, making it obsolete and duplicative.

Section 500.302, F.S., clarifies what constitutes an unlawful retail sale of a grain product. The department has adopted codes of federal regulation by reference in rule, making it obsolete and duplicative.

Section 500.303, F.S., requires the department to establish by rule a state standard for each grain product. The department has adopted codes of federal regulation by reference in rule, making it obsolete and duplicative.

Section 500.304, F.S., provides for enforcement of provisions found in ss. 500.301– 500.306, F.S. The department has adopted codes of federal regulation by reference in rule, making it obsolete and duplicative.

Section 500.305, F.S., provides the department with the authority to inspect, take samples and investigate grain products for compliance with ss. 500.301-500.306, F.S. The department has adopted codes of federal regulation by reference in rule, making it obsolete and duplicative.

Section 500.306, F.S., provides penalties for violations of ss. 500.301-500.306, F.S., which Section 36 of the bill repeals.

Section 500.601, F.S., regulates the retail sale of meat. The department no longer carries out this function, because it falls under the jurisdiction of the United States Department of Agriculture.

Section 570.345, F.S., pertains to the Interstate Pest Control Compact. With the dissolution of the Compact in 2013, the statutory authority in this section is obsolete.

Section 570.542, F.S., creates the short title of the Florida Consumer's Council and is not necessary.

Section 570.72, F.S., is a redundant definition of “department.”

Section 570.92, F.S., pertains to the department’s equestrian educational sports program which is an inactive program.

Section 589.081, F.S., details the payment of 15 percent of gross receipts received by the Florida Forest Service from the Goethe and Withlacoochee State Forests to the fiscally constrained counties within these forests. This statutory distribution has been moved to s. 589.08, F.S., in Section 92 of the bill.

Section 590.091, F.S., pertains to the designation of railroad rights-of-way as wildfire hazard areas. It is no longer needed due to underground pipelines and communications lines that run along railroad tracks.

Section 106 amends s. 193.461, F.S., pertaining to assessments of agricultural lands, to make grammatical changes and to correct a cross reference.

Section 107 amends s. 253.74, F.S., pertaining to certain aquaculture violations, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 108 amends s. 288.1175, F.S., pertaining to an agriculture education and promotion facility, to correct a cross reference.

Section 109 amends s. 320.08058, F.S., pertaining to Florida agricultural license plates, to correct cross references.

Section 110 amends s. 373.621, F.S., pertaining to water conservation, to correct a cross reference.

Section 111 amends s. 373.709, F.S., pertaining to regional water supply planning, to correct a cross reference.

Section 112 amends s. 381.0072, F.S., pertaining to food service protection, to correct a cross reference.

Section 113 amends s. 388.46, pertaining to the Florida Coordinating Council on Mosquito Control, to remove an obsolete reference to the Pesticide Review Council.

Section 114 amends s. 472.0351, F.S., pertaining to land surveyors and mappers, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 115 amends s. 472.036, F.S., pertaining to unlicensed practice of professional surveying and mapping, to provide cross references to penalties in the newly created s. 570.971, F.S.

Section 116 amends s. 482.161, F.S., pertaining to pest control, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 117 amends s. 482.165, F.S., pertaining to unlicensed practice of pest control, to provide cross references to penalties in the newly created s. 570.971, F.S.

Section 118 amends s. 482.243, F.S., pertaining to the Pest Control Enforcement Advisory Council, to correct a cross reference.

Section 119 amends s. 487.047, F.S., to revise provisions for filing pesticide applicator license applications to allow for on-line certification and licensure.

Section 120 amends s. 487.091, F.S., pertaining to penalties relating to pesticide regulation and safety, to provide cross references to penalties in the newly created s. 570.971, F.S.

Section 121 amends s. 487.175, F.S., pertaining to violations of pesticide application, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 122 amends s. 493.6118, F.S., pertaining to administrative fines for offenses by private investigative, security, and repossession services, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 123 amends s. 496.420, F.S., pertaining to the solicitation of persons for donations, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 124 amends s. 500.70, F.S., pertaining to tomato food safety standards, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 125 amends s. 501.612, F.S., pertaining to commercial telephone sellers or salespersons, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 126 amends s. 501.619, F.S., pertaining to consumer protection, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 127 amends s. 502.231, F.S., pertaining to penalties for violations of regulatory laws governing the production, processing, and distribution of milk, milk products, frozen desserts, and frozen dessert mix. It provides cross references to penalties in the newly created s. 570.971, F.S.

Section 128 amends s. 507.09, F.S., pertaining to household moving services, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 129 amends s. 507.10, F.S., pertaining to civil penalties and remedies for violations concerning household moving services, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 130 amends s. 509.032, F.S., pertaining to the department's duties during the inspection of food service establishments, to correct cross references.

Section 131 amends s. 525.16, F.S., pertaining to penalties for gasoline and oil inspection violations, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 132 amends s. 526.311, F.S., pertaining to penalties for violations in the sale of liquid fuels, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 133 amends s. 526.55, F.S., pertaining to penalties for violations in the sale of brake fluid, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 134 amends s. 527.13, F.S., pertaining to penalties for violations in the sale of liquefied petroleum gas, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 135 amends s. 531.50, F.S., pertaining to penalties for violations of the Weights and Measures Act of 1971, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 136 amends s. 534.52, F.S., pertaining to penalties for violations of livestock market laws, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 137 amends s. 539.001, F.S., pertaining to penalties for violations of the Florida Pawnbroking Act, to provide cross references to penalties in the newly created s. 570.971, F.S.

Section 138 amends s. 559.921, F.S., pertaining to penalties for violations of the Florida Motor Vehicle Repair Act, to provide cross references to penalties in the newly created s. 570.971, F.S.

Section 139 amends s. 559.9355, pertaining to administrative remedies for violations of the Florida Sellers of Travel Act, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 140 amends s. 559.936, F.S., pertaining to civil penalties for violations of the Florida Sellers of Travel Act, to provide cross references to penalties in the newly created s. 570.971, F.S.

Section 141 amends s. 571.11, F.S., pertaining to seal of quality for eggs and poultry, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 142 amends s. 571.28, F.S., pertaining to the Florida Agricultural Promotional Campaign Advisory Council, to correct a cross reference.

Section 143 amends s. 571.29, F.S., pertaining to unlawful use of logos of the Florida Agricultural Promotional Campaign, to provide cross references to penalties in the newly created s. 570.971, F.S.

Section 144 amends s. 578.181, F.S., pertaining to notice of infected plants and their destruction, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 145 amends s. 580.121, F.S., pertaining to penalties for violations of commercial feed and feedstuff laws, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 146 amends s. 581.141, F.S., pertaining to violations regarding certificates of registration or plant industry inspections, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 147 amends s. 581.186, F.S., pertaining to the Endangered Plant Advisory Council, to correct a cross reference.

Section 148 amends s. 581.211, F.S., pertaining to penalties for violations of plant industry laws, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 149 amends s. 582.06, F.S., pertaining to the Soil and Water Conservation Council, to correct a cross reference.

Section 150 amends s. 585.007, F.S., pertaining to violations of rules or laws governing the animal industry, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 151 amends s. 586.15, F.S., pertaining to violations of honey certification and honey bees, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 152 amends s. 586.161, pertaining to the Honeybee Technical Council, to correct a cross reference.

Section 153 amends s. 590.14, F.S., pertaining to violations of forest protection, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 154 amends s. 595.701, F.S., pertaining to the Healthy Schools for Healthy Lives Council, to correct a cross reference.

Section 155 amends s. 597.0041, F.S., pertaining to violations of prohibited acts relating to aquaculture, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 156 amends s. 599.002, F.S., pertaining to the Viticulture Advisory Council, to correct a cross reference.

Section 157 amends s. 601.67, F.S., pertaining to disciplinary actions against citrus fruit dealers, to provide cross references to penalties in the newly created s. 570.971, F.S.

Section 158 amends s. 604.30, F.S., pertaining to violations of general agricultural laws, to provide cross references to penalties in the newly created s. 570.971, F.S.

Section 159 amends s. 616.242, F.S., pertaining to violations of safety standards for amusement rides at public fairs and expositions, to provide a cross reference to penalties in the newly created s. 570.971, F.S.

Section 160 provides that this act shall take effect July 1, 2014.

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:

Refer to Private Sector Impact.

B. Private Sector Impact:

Section 5 (s. 487.046, F.S.), **Section 6** (s. 487.048, F.S.), **Section 76** (s. 576.021, F.S.) and **Section 119** (s. 487.047, F.S.), allow online registration, thus saving time and the cost of postage.

Section 14 (s. 500.12, F.S.), provides that persons who operate a minor food outlet selling non-potentially hazardous food whose shelf space does not exceed 20 linear feet are no longer require to obtain and pay for a food permit.

Section 22 (s. 501.977, F.S.), prohibits a special district from imposing minimum fares and wait times for livery transit services. Consumers of such services may realize a savings in transportation costs and avoid lost opportunity costs. Demand for such services may increase.

Section 78 (s. 576.041, F.S.), no longer requires licensees for agricultural fertilizers to post a surety bond with the department or to sign a certificate of deposit.

Section 84 (s. 578.08, F.S.), establishes two new lower registration fees for distributors of small amounts of seed (\$10/year for annual sales under \$500 and \$25/year for annual sales under \$1,000). This will reduce the fees these small distributors will have to pay, resulting in lower costs. The department estimates that a savings will be recognized by approximately 200 seed dealers.

Section 88 (s. 581.091, F.S.), simplifies the regulatory process for using Australian pines for windbreaks in commercial citrus groves. Nurseries wanting to obtain a permit to

propagate Australian pines will continue the current process of submitting an application accompanied by a fee of \$200, adhering to permit requirements, and renewing the application and fee annually. Growers wanting to plant Australian pines for windbreaks must continue to submit an application accompanied by a fee not to exceed \$500 to receive a special permit valid for five years.

Section 89 (s. 581.131, F.S.), benefits nurserymen, stock dealers, agents, and plant brokers by allowing billing to be more in alignment with established business practices using a thirty-day notice.

Section 90 (s. 583.01, F.S.), allows small farmers to be permitted as limited poultry and egg farm operations under department rule, resulting in a savings in reduced regulation and lower permit fees.

C. Government Sector Impact:

The reduction of fines and registrations that would result from passage of this bill are not anticipated to affect the department because these figures were never recognized by the department as a source of revenue.

Section 88 (s. 581.091, F.S.), terminates the Australian pine pilot program and moves it into a process with reduced regulation and increased areas where the pines can be planted. The department does not anticipate a significant increase in permits issued, but it could result in a potential indeterminate increase in permitting revenues.

Section 84 (s. 578.08, F.S.) reduces registration fees for seed dealers. The anticipated total reduction in registration fees is \$13,725.¹⁵

The Division of Food Safety conducted a review of the penalty provisions provided in ch. 500 and ch. 502, F.S. Because trend analysis indicated the division has not assessed fines for these types of violations in several years, the division decided to lower the fine amounts. It is expected that the division will not experience any fiscal impact as a result of reducing the fine amounts, since the penalties for violations were never recognized by the division as a source of financial revenue.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹⁵ Department of Agriculture and Consumer Services, *CS/SB 1630 Agency Analysis* (March 6, 2014) (on file with the Senate Agriculture Committee).

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 193.461, 253.74, 282.709, 288.1175, 320.08058, 373.621, 379.361, 373.709, 381.0072, 388.46, 472.0351, 472.036, 482.161, 482.165, 482.243, 487.041, 487.046, 487.047, 487.048, 487.091, 487.159, 487.160, 487.175, 487.2031, 487.2051, 493.6118, 493.6120, 496.420, 500.03, 500.12, 500.121, 500.147, 500.165, 500.172, 500.70, 501.019, 501.059, 501.612, 501.619, 507.09, 501.922, 507.10, 509.032, 525.16, 526.311, 526.55, 527.13, 531.50, 534.52, 539.001, 559.921, 559.9355, 559.936, 570.42, 570.14, 570.07, 570.23, 570.242, 570.36, 570.38, 570.44, 570.45, 570.451, 570.50, 570.51, 570.543, 570.074, 570.952, 570.902, 570.71, 570.247, 570.9135, 570.961, 570.963, 570.076, 571.11, 571.28, 571.29, 576.021, 576.031, 576.041, 576.051, 576.061, 576.071, 576.087, 576.101, 578.08, 578.181, 580.036, 580.041, 580.071, 580.091, 580.121, 581.091, 581.131, 581.141, 581.186, 581.211, 582.06, 583.01, 585.007, 586.15, 586.161, 589.08, 589.011, 589.20, 590.02, 590.125, 590.14, 595.701, 597.003, 597.004, 597.0041, 597.020, 599.002, 601.67, 604.16, 604.22, 604.30, and 616.242.

This bill transfers and renumbers the following sections of the Florida Statutes: 507.545, 570.0741, 570.17, 570.531, 570.0725, 570.241, 570.481, and 570.55.

This bill renumbers the following sections of the Florida Statutes: 570.16, 570.18, 570.0705, 570.073, 570.17, 570.951, 570.953, 570.901, 570.903, 570.91, 570.243, 570.244, 570.245, 570.246, 570.248, 570.249, 570.954, 570.96, 570.962, 570.964, 570.075, 570.085, and 570.087.

This bill creates the following sections of the Florida Statutes: 501.977, parts I, II, III, IV, and V of ch. 570, 570.67, and 570.971.

This bill repeals the following sections of the Florida Statutes: 487.172, 500.301, 500.302, 500.303, 500.304, 500.305, 500.306, 500.601, 570.345, 570.542, 570.72, 570.92, 589.081, and 590.091.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Agriculture on March 17, 2014:

- Makes technical and organizational changes.
- Provides that it is an unfair or deceptive regulatory act or practice for a special district to restrict the right of the public to freely bargain for lawful livery transit services, to create classifications within each type of livery service, or to fix or approve zones, rates, or fares for such classifications, which apply differently to individuals and businesses that compete with each other to provide similar services.
- Authorizes the department to adopt by rule training requirements for shellfish processors.

- B. **Amendments:**

None.

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