

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 1310

INTRODUCER: Senator Hutson

SUBJECT: Agriculture

DATE: January 21, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Weidenbenner	Becker	AG	Fav/CS
2.	_____	_____	AGG	_____
3.	_____	_____	AP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1310 confirms that the Department of Agriculture and Consumer Services (DACS) has the sole authority to regulate the burning of agricultural crops on land classified as agricultural land pursuant to s. 193.461, F.S. The committee substitute provides for a de minimis valuation of up to \$50 per acre for citrus lands that are being restored in accordance with the Citrus Health Response Program (CHRP). It preempts regulatory authority for commercial feed and feedstuff to the DACS. It establishes specific penalties enforceable at the state level, including enhanced penalties under certain circumstances, for persons knowingly dealing in any manner with plant pests, or introducing or releasing plant pests in this state without a special permit from the Division of Plant Industry of DACS. It also gives DACS authority to seek reimbursement for reasonable costs and expenses incurred in its plant pest control or eradication program. The committee substitute also allows livestock grazing on "conservation easements" if such activity is a current or historic use on the site.

II. Present Situation:

Burning of Agriculture Crops

Presently authorization must be obtained from the Florida Forest Service Division of the Department of Agriculture to conduct noncertified burning, certified prescribed burning, or certified pile burning. Additionally, open burning authorization programs of local governments

must be approved by the Florida Forest Service.¹ The Florida Forest Service regulates the burning of agricultural crops on land classified as agricultural pursuant to the authority of s. 590.125, F.S.² Further authority for exercise of this power can be found in ss. 590.02(1)(i) and 590.02(10)(a).

Special Agricultural Land Assessment for Abandoned Citrus Groves

The Florida Department of Agriculture and Consumer Services has initiated a comprehensive Citrus Health Response Program (CHRP) to encourage the removal and destruction of abandoned citrus groves. An element of this plan is the application of a special agricultural land assessment (a de minimis value of up to \$50 per acre) to land taken out of production pursuant to a state or federal eradication or quarantine program. DACS has interpreted this valuation to apply to lands in the CHRP program even though CHRP is not specifically mentioned in the statute.³

Commercial Feed and Feedstuff

“Commercial feed” is all materials or combinations of materials that are distributed or intended to be distributed for use as feed or for mixing in a feed for animals other than humans.⁴ “Feedstuff” is edible materials, other than commercial feed, that are distributed for animal consumption and that contribute energy or nutrients, or both, to an animal diet.⁵ The department has indicated that it, as well as local governments, if they are inclined to, are authorized to regulate commercial feed and feedstuff for quality, safety, labeling requirements, and standards. At present, there is no regulation of animal feed and feedstuff through local ordinances. The federal Food and Drug Administration is currently promulgating rules which would bring the manufacture and distribution of commercial livestock feed and ingredients to a standard of sanitation safe for both human handling and animal consumption through the Food Safety Modernization Act. The bill would clarify the department’s preemptive authority to regulate, inspect, sample, and analyze any commercial feed and feedstuff to eliminate potential duplication of regulation. This is supported by the Florida Feed Association.

Penalties for Certain Handling of Plant Pests

Laws covering the plant industry are covered in ch. 581, F.S. The powers, duties, and jurisdiction over the plant industry are enforced and under the control of the Division of Plant Industry of the Department of Agriculture and Consumer Services. The introduction of plant pests is prohibited except under special permit issued by the Division of Plant Industry, which shall be the sole issuing agency for such special permits.⁶ In general, any violation of ch. 581, F.S. subjects the

¹ Section 590.125(2), (3), (4), and (6), F.S.

² Department of Agriculture and Consumer Services (DACCS), *Senate Bill 1310 Analysis* (Jan. 12, 2016) (on file with the Senate Committee on Agriculture).

³ Florida Department of Agriculture and Consumer Services, *Citrus Health Response Program Update Abandoned Grove Initiative*, <http://freshfromflorida.s3.amazonaws.com/Media%2FFiles%2FPlant-Industry-Files%2FCHRP2%2FCHRP+Update+Abandoned+Grove82015.pdf>

⁴ Section 580.031(2), F.S.

⁵ Section 580.031(10), F.S.

⁶ Section 581.083(1), F.S.

violator to being charged with a first degree misdemeanor and a fine up to \$5,000. An eradication program to combat an invasive plant pest (the Giant African Land Snail) has caused DACS to expend \$11.5 million over 4 years⁷ but there is no provision to recover this type of costs in the statutes.

Conservation Easement

A conservation easement is a right or interest in real property which is appropriate to retaining land or water areas predominantly in their natural, scenic, open, agricultural or wooded condition.⁸ Conservation easements are meant to retain areas as suitable habitat for fish, plants or wildlife or to retain the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological or cultural significance. The purpose of a conservation easement is accomplished by restricting the amount of development allowed on a piece of property, limiting other land uses, and maintaining existing areas of conservation interest on a piece of property in their natural condition. Many conservation easements are required as a part of the conditions of regulatory permits. Other conservation easements are held by non-profit land trusts, usually obtained by donation from landowners who benefit from various local, state and federal tax deductions. And in Florida, conservation easements can be purchased from landowners by state, water management district and local conservation land acquisition programs. Conservation easements are fundamentally different from conservation lands that the state owns in fee-simple. First, the landowner retains title to the land and only gives up certain rights that he or she would otherwise have. The landowner, not the state, continues to manage the land subject to the restrictions.⁹ Landowners who have managed their lands for silvicultural resources, wetland protection, pasture for cattle grazing, or for hunting can continue to do so under a conservation easement. However, a landowner would not be allowed to reach back to historic uses to justify cattle grazing if it was not being presently used for that purpose.

III. Effect of Proposed Changes:

Section 1 amends s. 163.3162, F.S., to confirm that DACS has the sole authority to regulate the burning of agricultural crops on land classified as agricultural land pursuant to s. 193.461, F.S.

Section 2 amends s. 193.461, F.S., to provide that citrus lands taken out of production pursuant to a state or federal eradication or quarantine program, including the Citrus Health Response Program (CHRP), shall continue to be classified as agricultural land and appraised at a de minimis value of up to \$50 per acre during the 5-year term of the agreement.

Section 3 creates s. 580.0365, F.S., to preempt the regulatory authority for commercial feed and feedstuff to DACS in order to eliminate duplication of regulation.

Section 4 amends s. 581.211, F.S., to provide penalties for persons knowingly dealing in any manner with plant pests, or introducing or releasing plant pests in this state without a special permit from the Division of Plant Industry of DACS or conducting themselves in such a manner

⁷ DACS, *Senate Bill 1310 Analysis*.

⁸ Section 704.06, F.S.

⁹ Florida Department of Environmental Protection, *The Division of State Lands Conservation Easement Program*, https://www.dep.state.fl.us/lands/files/ConservationEasement_WhitePaper.pdf.

that results in the declaration of an agricultural emergency by the Commissioner of Agriculture or the implementation of a control or eradication program by DACS or the United States Department of Agriculture. Penalties include:

- Charge of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, F.S., or a charge of a felony of the second degree if there has been a declaration of an agricultural emergency by the Commissioner of Agriculture or the implementation of a control or eradication program by DACS or the United States Department of Agriculture.
- Imposition of an administrative fine pursuant to s. 570.091, F.S., in the Class II category (up to \$5,000) or a fine in the Class IV category (up to \$10,000) if there has been a declaration of an agricultural emergency by the Commissioner of Agriculture or the implementation of a control or eradication program by DACS or the United States Department of Agriculture.
- Suspension or revocation of a certificate of registration or a certificate of inspection.
- Liability for payment of all reasonable costs and expenses incurred by DACS which moneys shall be deposited into the Plant Industry Trust Fund.

Section 5 amends s. 704.06, F.S., to revise the definition of “conservation easement” to provide that a permitted use of an agricultural condition may include livestock grazing if the activity is a current or historic use of the land, on the condition that future livestock grazing is done in accordance with Best Management Practices (BMPs) adopted by DACS.

Section 6 provides that this bill takes effect July 1, 2016.

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:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.3162, 193.461, 581.211, and 704.06.

This bill creates section 580.0365 of the Florida Statutes.

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 January 19, 2016:

The committee substitute:

- Provides that citrus lands taken out of production pursuant to a state or federal eradication or quarantine program, including the Citrus Health Response Program (CHRP), shall continue to be classified as agricultural land and appraised at a de minimis value of \$50 per acre during the 5-year term of the agreement.
- Modifies the meaning of “conservation easement” to provide that a permitted use of an agricultural condition may include livestock grazing if the activity is a current or historic use of the land; it further requires future livestock grazing be in compliance with BMPs adopted by DACS.

B. Amendments:

None.