

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: SB 1310

INTRODUCER: Senator Hutson

SUBJECT: Agriculture

DATE: January 19, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Weidenbenner	Becker	AG	Pre-meeting
2.	_____	_____	AGG	_____
3.	_____	_____	AP	_____

I. Summary:

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. 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.

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 this authority can be found in ss. 590.02(1)(i) and 590.02(10)(a).

Commercial Feed and Feedstuff

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

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

“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.³

“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.⁴ 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.⁵ In general, any violation of ch. 581, F.S. subjects the 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 years⁶ but there is no provision to recover this type of costs in the statutes.

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 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 3 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 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

³ Section 580.031(2), F.S.

⁴ Section 580.031(10), F.S.

⁵ Section 581.083(1), F.S.

⁶ DACS, *Senate Bill 1310 Analysis*.

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 4 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:570.971

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, 581.211

This bill creates section 580.0365 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of 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.
