

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 Appropriations Subcommittee on General Government

BILL: SB 1498

INTRODUCER: Senator Benacquisto

SUBJECT: Pest Control

DATE: February 16, 2016

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|----------------|------------|-----------------------------|
| 1. | <u>Akhavein</u> | <u>Becker</u> | <u>AG</u> | Favorable |
| 2. | <u>Blizzard</u> | <u>DeLoach</u> | <u>AGG</u> | Recommend: Favorable |
| 3. | _____ | _____ | <u>FP</u> | _____ |

I. Summary:

SB 1498 relates to Florida law governing structural fumigation to further ensure public safety. The bill provides rulemaking authority to the Department of Agriculture and Consumer Services (department) to:

- Require fumigators to notify the department where a fumigation will be performed at least 24 hours in advance of any general fumigation;
- Authorize the department to specify circumstances when notification of less than 24 hours in advance is allowed, rather than only during an authentic and verifiable emergency; and
- Strengthen safety requirements for the clearance of residential structures before reoccupation after fumigation.

Additionally, the bill provides rulemaking authority for the department to place the following conditions on fumigant registration:

- Update training requirements for fumigant registrants;
- Conduct quality assurance reviews;
- Report the issuance of any probation or stop-sale notices; and
- Assist the department with the removal of fumigant containers from distributors and end users for compliance with permanent or extended stop-sales.

The bill has an insignificant indeterminate fiscal impact on state funds.

The bill provides an effective date of July 1, 2016.

II. Present Situation:

Currently, there are 137 pest control businesses actively performing structural fumigations within the state of Florida. These businesses performed approximately 66,700 structural fumigations in

Fiscal Year 2014-2015, representing a 57 percent increase in the average number performed over the past four fiscal years. For Fiscal Year 2014-2015, sulfuryl fluoride was the pesticide used in 99.92 percent of the structural fumigations performed.

Sulfuryl fluoride is the most common pesticide used as a structural fumigant and is classified by the U.S. Environmental Protection Agency as a “Restricted Use Pesticide” due to its high toxicity to humans. Florida law requires that suspected exposures to pesticides be reported to the Florida Department of Health (DOH), as well as the Division of Agricultural Environmental Services within the Department of Agriculture and Consumer Services (department) within 24 hours.

According to the DOH, since January 2010, 166 calls were received by the Florida Poison Information Center Network related to sulfuryl fluoride exposure. Most exposures were unintentional (94.6%), occurred at a residence (86.1%), and were managed at the call site (56%). The largest number of exposures was reported in Miami-Dade (30.7%), Broward (17.5%), Palm Beach (12%), Pinellas (9%), and Hillsborough (7.8%) counties. Common clinical syndromes among individuals who reported signs and symptoms were gastrointestinal, neurological, respiratory, and ocular. Common symptoms reported were nausea, eye irritation or pain, dyspnea, headache, vomiting, and dizziness. Since January 2010, one major illness and one death were reported.¹

Currently, licensees are required to notify the department of the location that fumigants will be applied at least 24 hours before the fumigation starts. Emergency notifications of structural fumigations (or notification in less than 24 hours prior to a fumigation) are allowed by s. 482.051, F.S., but what constitutes an emergency is not clearly defined. From 2010 to 2015, an average of 85 emergency notifications have been reported each year.

After a structural fumigation has occurred, the structure must be aerated. The aeration process includes a minimum one-hour active aeration and a minimum five-hour passive aeration. An active aeration requires the doors and windows of the structure to be opened and fans used to allow the fumigant to dissipate. The passive aeration occurs after the active aeration and requires the structure to be re-secured. Currently, pest control businesses are not required to provide the department with the initiation time of the aeration process. After the aeration process is completed, licensees are required to use calibrated clearance devices to take readings throughout a structure to ensure any residual fumigant is within acceptable levels for re-occupancy. Licensees are required to maintain evidence of device calibration, but are not required to provide these records to the department unless requested.

Stewardship training educates applicators about pest control products, how to properly apply pest control products, and the risks associated with these products. Frequent and proper stewardship training is the most effective way to mitigate the risks involved in structural fumigations. Currently, the requirement for participation in a stewardship program is enforced through language on the label of the fumigant.² The manufacturers’ label requires the completion of a

¹ Office of Florida Inspector General, “*Structural Fumigation Regulations and Processes*,” review of the Division of Agricultural Environmental Services, (January 2016): 1, <http://media.wptv.com/image/Report.pdf>, (last visited January 19, 2016).

² Analysis by the Department of Agriculture and Consumer Services for SB 1498, p.1 (January 15, 2016).

stewardship course before purchase or use of the product, but does not specify a training frequency. The division also does not require completion of a stewardship program for the certified operator to obtain a license. Therefore, the dealer can sell the pesticide to a certified operator who has not completed the stewardship training program.³

III. Effect of Proposed Changes:

Section 1 amends s. 482.051, F.S., to authorize the department to define by rule circumstances under which less than 24 hour notification of structural fumigation is acceptable. It also authorizes the department to require by rule additional safety measures to be taken regarding the clearance of residential structures before reoccupation after a fumigation. These measures can include, but are not limited to, extended aeration times or specific clearance procedures.

Section 2 amends s. 487.051, F.S., to authorize the department to adopt rules that require structural fumigant registrants (manufacturers) to:

- Train distributors and end users in safety measures and proper use, safe storage, and management of fumigant materials;
- Obtain continuing education program approval for stewardship training programs;
- Conduct quality assurance reviews;
- Report to the department any probation or stop-sale notices issued to end users; and
- Assist the department, upon request, with the removal of fumigant containers from distributors and end users for failure to comply with stewardship requirements.

Section 3 provides that this act shall take 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.

³ Office of Florida Inspector General, “*Structural Fumigation Regulations and Processes*,” review of the Division of Agricultural Environmental Services, (January 2016): 1, <http://media.wptv.com/image/Report.pdf>, (last visited January 19, 2016).

B. Private Sector Impact:

The provisions in SB 1498 related to additional safety measures for training and continuing education program approval for stewardship training programs may have an indeterminate fiscal impact to the private sector.

C. Government Sector Impact:

The bill has an insignificant negative fiscal impact to the department. The agency will need to initiate the rulemaking process to strengthen safety requirements for structural fumigation and to update requirements for fumigant registrants. These costs can be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends sections 482.051 and 487.051 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.