

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4035 Pesticide Registration

SPONSOR(S): Combee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	12 Y, 0 N	Gregory	Harrington
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Generally, each brand of pesticide distributed, sold, or offered for sale within the state must register with the Department of Agriculture and Consumer Services (DACS) biennially and pay a registration fee. In 2009, the Legislature created a supplemental biennial registration fee (supplemental fee) for each registered brand of pesticide that contains an active ingredient for which the United States Environmental Protection Agency (EPA) has established a food tolerance limit in 40 C.F.R. part 180 to defray the expense of the Chemical Residue Laboratory. DACS uses the supplemental fee to support the Chemical Residue Laboratory which performs chemical analyses of poisonous or deleterious chemical residues remaining in or on human food produced or marketed in Florida.

The bill eliminates the supplemental fee for each registered brand of pesticide that contains an active ingredient for which the EPA has established a food tolerance limit in 40 C.F.R. part 180.

The bill may have a significant negative fiscal impact on DACS by removing the supplemental fee that funds the Chemical Residue Laboratory. The bill will have a positive fiscal impact on individuals who distribute, sell, or offer to sell pesticides by eliminating the supplemental fee.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Pesticide Registration

Effective January 1, 2009, each brand of pesticide¹ distributed, sold, or offered for sale, except as otherwise provided, within the state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state, must register with the Department of Agriculture and Consumer Services (DACS) and pay a biennial registration fee.² DACS assess each pesticide registration beginning in an odd-numbered year a fee of \$700 per brand of pesticide and a fee of \$200 for each special local need label and experimental use permit.³ The registration expires on December 31 of the following year.⁴ DACS assesses each pesticide registration beginning in an even-numbered year a fee of \$350 per brand of pesticide and fee of \$100 for each special local need label and experimental use permit.⁵ That registration expires on December 31 of that year.⁶

Supplemental Registration Fee

In 2009, the Legislature amended s. 487.041, F.S., to defray the expense of the Chemical Residue Laboratory by creating a supplemental biennial registration fee (supplemental fee) for each registered brand of pesticide that contains an active ingredient for which the United States Environmental Protection Agency (EPA) has established a food tolerance limit in 40 C.F.R. part 180.⁷ DACS must biennially publish by rule a list of the pesticide active ingredients for which a brand of pesticide is subject to the supplemental fee.⁸ DACS assesses each registration beginning in an odd-numbered year a supplemental registration fee of \$630 per brand of pesticide that is subject to the supplemental fee.⁹ DACS assesses each registration beginning in an even-numbered year a supplemental registration fee of \$315 per brand of pesticide that is subject to the supplemental fee.¹⁰

The revenue from these two fees, less those costs determined by DACS to be nonrecurring or one-time costs, must be deferred over the 2-year registration period, deposited in the General Inspection Trust Fund, and used by DACS to carry out the provisions of the Florida Pesticide Law.¹¹ Revenues collected from the supplemental fee may also be used by DACS to test pesticides for food safety.¹²

¹ Section 487.021(49), F.S., defines the term “pesticide” to mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses, bacteria, or fungi on or in living humans or other animals, which the department by rule declares to be a pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. The term does not include any article that is a “new animal drug” within the meaning of s. 201(w) of the Federal Food, Drug, and Cosmetic Act, has been determined by the Secretary of the US Department of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article; or is an animal feed within the meaning of s. 201(x) of the Federal Food, Drug, and Cosmetic Act.

² Section 487.041(1), F.S.

³ Section 487.041(1)(c), F.S.

⁴ Id.

⁵ Id.

⁶ Id.

⁷ Section 32, ch. 2009-66, Laws of Fla.

⁸ Section 487.041(1)(d)1., F.S.

⁹ Section 487.041(1)(d)2., F.S.

¹⁰ Id.

¹¹ Section 487.041(1)(e), F.S.

¹² Id.

Chemical Residue Laboratory

For food safety purposes, the Chemical Residue Laboratory tests food for pesticides. The Chemical Residue Laboratory performs chemical analyses of poisonous or deleterious chemical residues remaining in or on human food produced or marketed in Florida.¹³ The Bureau of Chemical Residue Laboratories uses the laboratory for the regulatory enforcement of federal pesticide and antibiotic residue tolerances and guidelines adopted by the state for raw agricultural produce.¹⁴ DACS operates the Chemical Residue Laboratory in Tallahassee.¹⁵ This is the only state laboratory in Florida dedicated to chemical residue analysis in foods.¹⁶

Prior to the creation of the supplemental fee in 2009, DACS received General Revenue to support the Chemical Residue Laboratory.¹⁷ Currently, DACS uses revenues received from the supplemental fee to fund the Chemical Residue Laboratory.¹⁸

Effect of the Proposed Changes

The bill eliminates the supplemental fee for each registered brand of pesticide that contains an active ingredient for which the EPA has established a food tolerance limit in 40 C.F.R. part 180 by repealing paragraph 487.041(1)(d), F.S., and removing references to the supplemental fee throughout the section.

According to DACS, if the supplemental fee is removed and not replaced with another funding source, the Chemical Residue Laboratory will be forced to discontinue operations.¹⁹

B. SECTION DIRECTORY:

Section 1. Amends s. 487.041, F.S., relating to pesticide registration.

Section 2. Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may have a significant negative fiscal impact on DACS by removing the supplemental fee that funds the Chemical Residue Laboratory.²⁰ According to DACS, it will lose approximately \$1,842,876 in revenue.²¹

2. Expenditures:

None.

¹³ DACS, *Bureau of Chemical Residue Laboratory*, <http://www.freshfromflorida.com/Divisions-Offices/Food-Safety/Bureaus-and-Sections/Bureau-of-Chemical-Residue-Laboratory> (last visited November 17, 2015).

¹⁴ Id.

¹⁵ Id.

¹⁶ DACS, Agency Analysis of 2016 House Bill 4035, p. 1 (November 16, 2015).

¹⁷ Full Appropriations Council on General Government and Health Care, 2009 House of Representatives Staff Analysis for House Bill 5125, p. 2 (April 7, 2009).

¹⁸ DACS, Agency Analysis of 2016 House Bill 4035, p. 1 (November 16, 2015).

¹⁹ Id.

²⁰ Id.

²¹ Id. at 2.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will have a positive fiscal impact on individuals who distribute, sell, or offer to sell pesticides by eliminating the supplemental fee for each registered brand of pesticide that contains an active ingredient for which the EPA has established a food tolerance limit in 40 C.F.R. part 180.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.