

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	HB 5401	FINAL HOUSE FLOOR ACTION:		
SUBJECT/SHORT TITLE	Pesticide Registration	109	Y's 3	N's
SPONSOR(S):	Agriculture & Natural Resources Appropriations Subcommittee, Clemons	GOVERNOR'S ACTION:	Approved	
COMPANION BILLS:	None.			

SUMMARY ANALYSIS

HB 5401 passed the House on May 8, 2017, and the Senate subsequently passed the House Bill on May 8, 2017.

Generally, each brand of pesticide distributed, sold, or offered for sale within the state must be registered with the Department of Agriculture and Consumer Services (DACS) biennially and is subject to 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 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.

The Fiscal Year 2016-2017 General Appropriations Act provided \$1,801,131 in recurring funds from the General Revenue Fund to support 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.

Subject to the Governor's veto powers, the effective date of this bill is July 1, 2017.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF 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 be registered with the DACS and is subject to a biennial registration fee.² DACS assesses 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 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 180.⁷ 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 two-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 funds from the General Revenue Fund to support the Chemical Residue Laboratory.¹⁷ DACS used revenues received from the supplemental fee to fund the Chemical Residue Laboratory until Fiscal Year 2016-2017. The Fiscal Year 2016-2017 General Appropriations Act provided \$1,801,131 in recurring funds from the General Revenue Fund to support the Chemical Residue Laboratory and reduced \$1,801,131 in recurring funds from the General Inspection Trust Fund for the supplemental fee revenues.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.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

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 Specific Appropriations 1382, 1422, 1429, 1430, 1431, 1432, 1433, 1434, and 1435 in chapter 2016-66, Laws of Florida.

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:

The Fiscal Year 2016-2017 General Appropriations Act provided \$1,801,131 in recurring funds from the General Revenue Fund to support the Chemical Residue Laboratory and reduced \$1,801,131 in recurring funds from the General Inspection Trust Fund for the supplemental fee revenues. The bill eliminates the supplemental fee revenues that were deposited into the General Inspection Trust Fund.