

FLORIDA HOUSE OF REPRESENTATIVES BILL ANALYSIS

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BILL #: [CS/HB 129](#)

TITLE: Products Liability Actions Under the Florida Pesticide Law

SPONSOR(S): Grow

COMPANION BILL: [SB 992](#) (Collins)

LINKED BILLS: None

RELATED BILLS: None

Committee References

[Civil Justice & Claims](#)

10 Y, 4 N, As CS



[Housing, Agriculture & Tourism](#)



[Judiciary](#)

SUMMARY

Effect of the Bill:

CS/HB 129 prohibits the bringing or maintaining of a pesticide-related products liability action for failure to warn if the product label meets specified requirements. However, the bill also provides an exception under which such an action may be brought or maintained against a pesticide manufacturer that knowingly withheld or took other specified actions with respect to material information regarding the risks associated with such pesticide in order to obtain Environmental Protection Agency approval for its product label.

Fiscal or Economic Impact:

The bill may have a fiscal impact on the state court system and an economic impact on the private sector.

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ANALYSIS

EFFECT OF THE BILL:

The bill provides that a [products liability action](#) under the [Florida Pesticide Law](#) based on a [failure to warn](#) may not be brought or maintained with respect to any pesticide [registered with the Environmental Protection Agency](#) ("EPA") under the [Federal Insecticide, Fungicide, and Rodenticide Act](#) ("FIFRA") if the label for such pesticide is:

- Approved by the EPA;
- Consistent with the most recent [human health risk assessment](#) performed under FIFRA; or
- Consistent with the EPA's [carcinogenicity classification](#) of the pesticide under FIFRA.

However, under the bill, such provision does not shield from liability a [manufacturer](#) that the EPA determines knowingly withheld, concealed, misrepresented, or destroyed material information regarding the human health risks or carcinogenicity of such pesticide in order to obtain or maintain EPA approval of its label. (Section [1](#))

The bill provides an effective date of July 1, 2025. (Section [2](#))

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

The bill may have a fiscal impact on the state court system. The precise effect of such impact depends upon the extent to which the changes made by the bill decrease the number of pesticide-related products liability lawsuits filed in the state court system.

PRIVATE SECTOR:

The bill may have an economic impact on the private sector. The bill may have a positive economic impact on pesticide [dealers](#), [distributors](#), [applicators](#), manufacturers, and [registrants](#), as well as on [agricultural employers](#)

STORAGE NAME: h0129a.CIV

DATE: 4/3/2025

and others, to the extent that changes made by the bill prevent such parties from being sued for a pesticide-related products liability action based upon a failure to warn. However, the bill may have a negative economic impact on persons harmed by pesticides who are now unable to recover damages for such harm by bringing a products liability action based upon a failure to warn where such an action could have previously been brought.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Products Liability

A “[products liability action](#)” is a civil action based upon a theory of strict liability,¹ negligence,² breach of warranty,³ nuisance,⁴ or similar theories for damages caused by the manufacture, construction, design, formulation, installation, preparation, or assembly of a product or the [failure to warn](#) that the product is potentially dangerous.⁵ However, it is the substance of an action, not the conclusory terms used by a party, that determines whether an action is a products liability action.⁶

Products liability laws are based on the premise that companies have a duty to protect consumers from potential hazards caused by their products.⁷ Generally, a product must meet the ordinary expectations of a consumer; when a product has an unexpected defect or danger, the product cannot be said to meet those expectations.⁸ However, Florida courts have held that:

- A manufacturer has no duty to design the safest possible product;
- A manufacturer cannot be held liable for the misuse of a product;
- There is no duty to warn of an obvious danger or a danger about which the user is aware;
- A legally sufficient warning does not need to prevent a user from misusing a product; and
- A product manufacturer, distributor, or seller does not owe a duty to a third party who is injured as a result of a buyer’s use of a product for unintended purposes.⁹

¹ “Strict liability” exists when a defendant is liable for committing an action, regardless of what his or her intent or mental state was when committing the action. In the products liability context, strict liability applies when a defective product for which a defendant holds responsibility causes injury to a plaintiff. Legal Information Institute, *Strict Liability*, https://www.law.cornell.edu/wex/strict_liability (last visited Apr. 3, 2025).

² “Negligence” is the failure to behave with the level of care that a reasonable person would have exercised under the same circumstances. The elements required to prove negligence are duty, breach, causation, and damages. Legal Information Institute, *Negligence*, <https://www.law.cornell.edu/wex/negligence> (last visited Apr. 3, 2025).

³ “Breach of warranty” is the violation of an express or implied contract of warranty, and thus it is a breach of contract. Essentially, it occurs when the warrantor fails to provide the assurances warranted. Legal Information Institute, *Breach of Warranty*, https://www.law.cornell.edu/wex/breach_of_warranty (last visited Apr. 3, 2025).

⁴ “Nuisance” means actions within a person’s control that interfere with the rights of others. Examples include creating loud noises or letting water run onto another person’s property. Courts evaluate whether an action by a party constitutes a nuisance and, in doing so, consider whether the action unreasonably interferes with the health, safety, and comfort of the affected parties. The length of the action, degree of unreasonableness, and whether there is a law or regulation prohibiting the action are influential. Legal Information Institute, *Nuisance*, <https://www.law.cornell.edu/wex/nuisance> (last visited Apr. 3, 2025).

⁵ The statute of limitations for a products liability action depends on the specific theory alleged. For example, the statute of limitations for a negligence action is two years, while the statute of limitations for a breach of warranty action is four years. Ss. [95.11](#) and [768.81\(1\)\(d\), F.S.](#)

⁶ *Id.*

⁷ The Florida Bar, *Product Liability*, <https://www.floridabar.org/practice-areas/product-liability/> (last visited Apr. 3, 2025).

⁸ *Id.*

⁹ *Michael Grieco v. Daiho Sangyo., Inc.*, 344 So. 3d 11 (Fla. 4th DCA 2022).

Pesticides

Federal Pesticide Regulation

The [Federal Insecticide, Fungicide, and Rodenticide Act](#) (“FIFRA”) regulates pesticide distribution, sale, and use in the United States.¹⁰ Under FIFRA, all pesticides distributed or sold in the United States must be [registered with the Environmental Protection Agency](#) (“EPA”), and the EPA may not register a pesticide before the applicant demonstrates, among other things, that using the pesticide in accordance with its specifications “will not generally cause unreasonable adverse effects on the environment.”¹¹ Under FIFRA, “unreasonable adverse effects on the environment” means:

- Any unreasonable risk to man or the environment, accounting for the economic, social, and environmental costs and benefits of the pesticide’s use; or
- A human dietary risk from residues that result from the pesticide’s use in or on any food inconsistent with standards set by the Federal Food, Drug, and Cosmetic Act (“FFDCA”).¹²

As part of the registration process, the EPA reviews the proposed product label required for the pesticide’s package or container, which labels are intended to provide critical information to consumers about how to handle and safely use the pesticide product and avoid harm to human health and the environment.¹³ To that end, federal law requires every pesticide product to bear a label that clearly and prominently displays the following:

- The name, brand, or trademark under which the product is sold;
- The name and address of the producer, registrant, or person for whom the product is produced;
- The net contents;
- The product registration number;
- The producing establishment number;
- An ingredient statement;
- Hazard and precautionary statements for human and domestic animal hazards and for environmental hazards;
- The directions for use; and
- The use classifications.¹⁴

Further, under Federal law, a pesticide or a device is considered misbranded if its labeling is false or misleading in any particular, including in both pesticidal and non-pesticidal claims.¹⁵ Examples of statements or representations in the labeling which constitute misbranding include:

- A false or misleading statement concerning the product’s composition;
- A false or misleading statement concerning the product’s effectiveness as a pesticide or device;
- A false or misleading statement about the product’s value for purposes other than as a pesticide or device;
- A false or misleading comparison with other pesticides or devices;
- Any statement directly or indirectly implying that the pesticide or device is recommended or endorsed by any agency of the Federal Government;
- The name of a pesticide which contains two or more principal active ingredients if the name suggests one or more but not all such principal active ingredients even though the names of the other ingredients are stated elsewhere in the labeling;
- A true statement used in such a way as to give the purchaser a false or misleading impression;
- Label disclaimers which negate or detract from required labeling statements;
- Claims as to the safety of the pesticide or its ingredients, including statements such as “safe,” “nonpoisonous,” “non-injurious,” “harmless” or “nontoxic to humans and pets” with or without such a qualifying phrase as “when used as directed”; and

¹⁰ [7 U.S.C. s. 136](#), *et seq.*

¹¹ *Id.*

¹² *Id.*; The Federal Food, Drug, and Cosmetic Act is codified at [21 U.S.C. s. 301](#), *et seq.*

¹³ Environmental Protection Agency, *Labeling Requirements*, <https://www.epa.gov/pesticide-registration/labeling-requirements> (last visited Apr. 3, 2025).

¹⁴ [40 C.F.R. Part 156](#).

¹⁵ *Id.*

- Non-numerical and/or comparative statements on the product’s safety, including but not limited to statements such as “contains all-natural ingredients”; “among the least toxic chemicals known”; and “pollution approved.”¹⁶

In addition to label review, the EPA requires extensive scientific data on the potential health and environmental effects of a pesticide before granting a registration.¹⁷ To that end, the EPA conducts a [human health risk assessment](#), which estimates the nature and probability of adverse health effects in humans who may be exposed to chemicals in contaminated environmental media, now or in the future.¹⁸ Further, the Health Effects Division of the Office of Pesticide Programs performs an independent review of studies conducted in mice and rats to evaluate a pesticide’s carcinogenic potential, the results of which are peer-reviewed by the Cancer Assessment Review Committee; the committee then recommends a [carcinogenicity classification](#), which classification determines how the Agency ultimately regulates the pesticide.¹⁹

The FFDCA, in turn, authorizes the EPA to set tolerances, or maximum residue limits, for pesticide residue on foods.²⁰ In setting tolerances, the EPA must find that a tolerance is “safe,” meaning that there is a “reasonable certainty that no harm will result from aggregate exposure to the pesticide residue.”²¹ Where there is no such established tolerance for a given pesticide, a food containing such pesticide’s residue is subject to seizure by the federal government.²² However, once a tolerance for a given pesticide is established, a residue level exceeding such tolerance triggers the possibility of federal and state enforcement actions.²³ Under FIFRA, the states generally have the primary authority for compliance monitoring and acting against illegal pesticide use through state-enacted monitoring programs and the imposition of state-enacted civil or criminal penalties.²⁴ However, the EPA may also bring civil or criminal enforcement actions under applicable federal law in certain circumstances.²⁵

The Florida Pesticide Law

Under Florida law, a “pesticide” is 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 Florida Department of Agriculture and Consumer Services (“FDACS”), by rule, declares to be a pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.²⁶ The [Florida Pesticide Law](#), set out in Part I of Ch. 487, F.S., and enforced by FDACS, regulates the distribution, sale, and use of pesticides in this state to protect persons and the environment from the adverse effects of pesticides.²⁷ Such regulations exist in addition to applicable federal regulations and include pesticide registration requirements, a list of prohibited activities, and licensing and other requirements for various persons involved in pesticide manufacturing, distribution, sale, or application.

Under the Florida Pesticide Law:

¹⁶ *Id.*

¹⁷ Environmental Protection Agency, *Introduction to Pesticide Labels*, <https://www.epa.gov/pesticide-labels/introduction-pesticide-labels> (last visited Apr. 3, 2025).

¹⁸ Environmental Protection Agency, *Human Health Risk Assessment*, <https://www.epa.gov/risk/human-health-risk-assessment> (last visited Apr. 3, 2025).

¹⁹ Environmental Protection Agency, *Evaluating Pesticides for Carcinogenic Potential*, <https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/evaluating-pesticides-carcinogenic-potential> (last visited Apr. 3, 2025).

²⁰ [21 U.S.C. s. 301](#), *et seq.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ [7 U.S.C. s. 136](#), *et seq.*; EPA, *Basic Information on Enforcement*, <https://www.epa.gov/enforcement/basic-information-enforcement> (last visited Apr. 3, 2025).

²⁵ *Id.*

²⁶ “Plant regulator” means any substance or mixture of substances intended, through physiological action, for accelerating or retarding the rate of growth or maturation, or for otherwise altering the behavior, of ornamental or crop plants or the produce thereof; but does not include substances intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments. “Defoliant” means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission. “Desiccant” means any substance or mixture of substances intended for artificially accelerating the drying of plant tissues. S. [487.021 \(19\), \(21\), \(49\), and \(51\)](#), F.S.

²⁷ Ss. [487.011](#) and [487.012](#), F.S.

- **“Applicator”** includes a:
 - “Certified applicator,” meaning any individual who has been recognized by FDACS as a competent pesticide applicator and, thus, is eligible to apply for licensure in one or more of the designated applicator license types and categories.²⁸
 - “Commercial applicator,” meaning an individual who has reached the age of majority and is licensed by FDACS to use or supervise the use of any restricted-use pesticide²⁹ for any purpose on any property other than as provided by the definitions of “private applicator,” “product specific applicator,” or “public applicator,” whether or not the individual is a private applicator with respect to some uses.³⁰
 - “Licensed applicator,” meaning an individual who has reached the age of majority and is authorized by license from FDACS to use or supervise the use of any restricted-use pesticide covered by the license.³¹
 - “Private applicator,” meaning an individual who has reached the age of majority and is licensed by FDACS to use or supervise the use of any restricted-use pesticide for purposes of producing any agricultural commodity on property owned or rented by his or her employer, or, if applied without compensation other than the trading of personal services between producers of agricultural commodities, on the property of another person.³²
 - “Public applicator,” meaning an individual who has reached the age of majority and is licensed by FDACS to use or supervise the use of restricted-use pesticides as an employee of a state agency, municipal corporation, or other governmental agency.³³
 - “Product specified applicator,” meaning an individual who has reached the age of majority and is licensed by FDACS to use or supervise the use of a particular restricted-use pesticide product that is identified on the license by the United States Environmental Protection Agency registration number, as well as any Florida-specific registration number and any specific identifying information as deemed appropriate for non-federally registered products with a specified exemption, provided that such pesticides are used for a specified purpose.³⁴
- **“Dealer”** means any person, other than the manufacturer or distributor, who offers for sale, sells,³⁵ barter, or otherwise supplies pesticides to the ultimate user or consumer.³⁶
- **“Distributor”** means any person who offers for sale, holds for sale, sells, barter, or supplies pesticides in this state.³⁷
- **“Manufacturer”** means a person engaged in the business of importing, producing, preparing, mixing, formulating, or reformulating pesticides for the purpose of distribution.³⁸
- **“Registrant”** means the person registering any pesticide under the Florida Pesticide Law.³⁹

In addition to facing penalties under the Florida Pesticide Law and applicable federal regulations, pesticide distributors, dealers, applicators, manufacturers, and registrants are subject to civil suit in state court for a products liability action where the state courts have jurisdiction over such persons.

The Florida Agricultural Worker Safety Act

²⁸ S. [487.021\(15\), F.S.](#)

²⁹ “Restricted-use pesticide” means a pesticide which, when applied in accordance with its directions for use, warnings, and cautions and for uses for which it is registered or for one or more such uses, or in accordance with a widespread and commonly recognized practice, may generally cause, without additional regulatory restrictions, unreasonable adverse effects on the environment, or injury to the applicator or other persons, and which has been classified as a restricted-use pesticide by the department or the administrator of the United States Environmental Protection Agency. S. [487.021\(58\), F.S.](#)

³⁰ S. [487.021\(16\), F.S.](#)

³¹ S. [487.021\(41\), F.S.](#)

³² S. [487.021\(52\), F.S.](#)

³³ S. [487.021\(55\), F.S.](#)

³⁴ S. [487.021\(56\), F.S.](#)

³⁵ Under the Florida Pesticide Law, “sell” or “sale” includes exchanges. S. [487.021\(59\), F.S.](#)

³⁶ S. [487.021\(17\), F.S.](#)

³⁷ S. [487.021\(24\), F.S.](#)

³⁸ S. [487.021\(42\), F.S.](#)

³⁹ S. [487.021\(57\), F.S.](#)

The Florida Agricultural Worker Safety Act (“FAWSA”), administered by FDACS, ensures that agricultural workers⁴⁰ employed in Florida receive protection from agricultural pesticides in a manner consistent with applicable federal regulations.⁴¹ Under FAWSA, an [agricultural employer](#)⁴² must make available agricultural pesticide information concerning any agricultural pesticide to a worker:

- Who enters an agricultural-pesticide-treated area on an agricultural establishment⁴³ where:
 - An agricultural pesticide has been applied within 30 days of entry; or
 - A restricted-entry interval has been in effect; or
- Who may be exposed to the agricultural pesticide during normal conditions of use or in a foreseeable emergency.⁴⁴

Such information must be in the form of a fact sheet⁴⁵ or safety data sheet,⁴⁶ and the agricultural employer must provide a written copy of such information:

- Within two working days after a request therefor by a worker or a designated representative;⁴⁷ or
- In the case of a pesticide-related medical emergency, promptly upon the request of the worker, the designated representative, or medical personnel treating the worker.⁴⁸

Further, FAWSA prohibits any person covered thereunder from failing to provide agricultural pesticide information as required by FAWSA, or from taking retaliatory action.⁴⁹ Federal and state penalties apply for any FAWSA violation.⁵⁰

⁴⁰ “Worker” means any person including a farmworker or a self-employed person, who receives any type of compensation for employment that involves tasks relating to the production of agricultural plants on an agricultural establishment. The term does not include any person employed by a commercial pesticide-handling establishment to perform tasks as a crop advisor. S. [487.2031\(10\), F.S.](#)

⁴¹ Ss. [487.2021](#), and [487.204, F.S.](#)

⁴² “Agricultural employer” means any person who hires or contracts for the services of workers to perform activities related to the production of agricultural plants or any person who is an owner of, or responsible for, the management or condition of an agricultural establishment that uses such workers. S. [487.2031\(1\), F.S.](#)

⁴³ “Agricultural establishment” means any farm, forest, nursery, or greenhouse. S. [487.2031\(2\), F.S.](#)

⁴⁴ S. [487.2051, F.S.](#)

⁴⁵ “Fact sheet” means an agricultural pesticide fact sheet approved by the state or Federal Government that provides information about the impacts of the use of an agricultural pesticide. S. [487.2031\(6\), F.S.](#)

⁴⁶ “Safety data sheet” means written, electronic, or printed material concerning an agricultural pesticide that sets forth an agricultural pesticide’s chemical name and common name; the hazards or other risks in the use of the agricultural pesticide; the proper handling practices, necessary personal protective equipment, and other proper or necessary safety precautions in circumstances that involve the use of or exposure to the agricultural pesticide, including appropriate emergency treatment; the emergency procedures for spills, fire, disposal, and first aid; a description of known specific potential health risks posed by the agricultural pesticides, which is written in lay terms and is intended to alert a person who reads the information; and the year and month, if available, that the information was compiled and the name, address, and emergency telephone number of the manufacture responsible for preparing the information. S. [487.2031\(8\), F.S.](#)

⁴⁷ “Designated representative” means any organization or person to whom a worker gives written authorization to exercise the right to request the agricultural pesticide information pursuant to FAWSA. S. [487.2031\(5\), F.S.](#)

⁴⁸ *Id.*

⁴⁹ “Retaliatory action” means an action, such as dismissal, demotion, harassment, blacklisting with other employers, reducing pay or work hours, or taking away company housing, that is taken by any agricultural employer against a worker who exercises any right under the provisions of the EPA’s Worker Protection Standard. Ss. [487.2031\(7\)](#) and [487.2061, F.S.](#)

⁵⁰ S. [487.2071, F.S.](#)

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Civil Justice & Claims Subcommittee	10 Y, 4 N, As CS	4/3/2025	Jones	Mawn
THE CHANGES ADOPTED BY THE COMMITTEE:	<ul style="list-style-type: none">• Removed the provision prohibiting the bringing or maintaining of a products liability action against a pesticide distributor, dealer, applicator, registrant, or agricultural employer unless specified conditions are met.• Expanded the persons entitled to a liability shield for a pesticide-related failure to warn cause of action but eliminated the liability shield for a pesticide manufacturer that engaged in specified conduct in order to obtain product label approval.• Removed language specifying that a pesticide label meeting specified requirements satisfies any requirements for a warning label regarding health or safety, or any other provision of general law.			
Housing, Agriculture & Tourism Subcommittee				
Judiciary Committee				

THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.
