

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 14-C

SPONSOR: Criminal Justice Committee and Senator Geller

SUBJECT: Aerial Application of Pesticides, Fertilizers and Seed

DATE: November 27, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson/Akhavein</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This CS authorizes the Department of Agriculture and Consumer Services (department) to establish, by rule, requirements for aircraft used in the aerial application of pesticides, fertilizers and/or seed. Such requirements may include record keeping, annual aircraft registration, secure storage when not in use, area-of-application information, and reporting of any sale, lease, purchase, rental, or transfer of such aircraft to another person. The CS also provides for the department to establish, by rule, requirements for the secure storage of pesticides and fertilizers.

The CS requires the department to report to the President of the Senate and Speaker of the House of Representatives on the implementation of rules authorized by this act. It also requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to review the cost impact to the aerial application industry of the implementation of any rules adopted pursuant to this act.

This CS amends sections 487.051, 570.07, 576.181, and 578.11 of the Florida Statutes.

II. Present Situation:

Chapter 388, F.S., authorizes the Department of Agriculture and Consumer Services (department) to control arthropods, such as mosquitoes to protect human health, promote the economic development of the state, and facilitate the enjoyment of its natural attractions by reducing the number of pestiferous and disease-carrying arthropods. Chapter 487, F.S., authorizes the department to regulate the distribution, sale, and use of pesticides and to protect people and the environment from the adverse effects of pesticides. Chapter 576, F.S., authorizes the department to regulate the sale and use of agricultural fertilizers.

Currently, the Department of Agriculture and Consumer Services does not have the authority to require the secure storage of agricultural and mosquito control aircraft and chemicals (fertilizers and pesticides) or to require the submission of aircraft and flight plan information to reduce the likelihood of theft or unauthorized access. Under current Federal Aviation Administration (FAA) Part 137 regulations, agricultural and mosquito control flight plan information is generally not required unless operations occur within controlled air space or within the vicinity of a control tower.

The department adopted an emergency rule on September 27, 2001, requiring agricultural and mosquito control aircraft operators to provide information demonstrating proper pesticide registration, FAA licensure and aircraft registration. The emergency rule also requires the submission of daily flight plan information to authenticate operations if needed by law enforcement. The emergency rule expires at the end of the 90 days. The emergency rule was prepared under authority of the Executive Order issued by the Governor's Office on September 11 in response to the terrorist attacks on New York City and the Pentagon. The department will not have the authority to adopt additional rules dealing with aircraft and chemical security issues after the 90 day period without further legislative action.

Currently, public records for information under chapters 487, 570, 576 or 578, F.S., may be obtained without providing any form of identification. The result of this policy is that no record of persons who request information pertaining to the names, addresses, telephone numbers and license numbers of aerial applicators is available in the event that this information is needed by law enforcement.

III. Effect of Proposed Changes:

Section 1. Amends s. 487.051, F.S., to authorize the Department of Agriculture and Consumer Services to adopt rules governing aircraft used for the aerial application of pesticides. Provides for the rules to include requirements for record keeping, annual aircraft registration, secure storage, area-of-application information, report of any sale, purchase, or transfer of the aircraft to another person and the secure storage of pesticides used by aerial pesticide applicators.

Section 2. Amends s. 570.07, F.S., to authorize the Department of Agriculture and Consumer Services to adopt rules governing aircraft used for the aerial application of pesticides, fertilizers or seed. Provides for the rules to include requirements for record keeping, annual aircraft registration, area-of-application information, report of any sale, purchase, or transfer of the aircraft to another person, and the aerial applicator's secure storage of pesticides and fertilizers. Provides that regulation of the use of pesticides and fertilizers for aerial applicators is expressly preempted to the department, except as provided in chapters 373, 376, and 403, F.S.

Section 3. Amends s. 576.181, F.S., to authorize the Department of Agriculture and Consumer Services to adopt rules governing aircraft used for the aerial application of fertilizers. Provides for the rules to include requirements for record keeping, annual aircraft registration, secure storage, area-of-application information, report of any sale, purchase, or transfer of the aircraft to another person and the secure storage of fertilizers used by aerial fertilizer applicators.

Section 4. Amends s. 578.11, F.S., to authorize the Department of Agriculture and Consumer Services to adopt rules governing aircraft used for the aerial application of seed. Provides for the rules to include requirements for record keeping, annual aircraft registration, secure storage, area-of-application information, and report of any sale, purchase, or transfer of the aircraft to another person.

Section 5. Requires the Department of Agriculture and Consumer Services to report to the President of the Senate and the Speaker of the House of Representatives on the implementation of any rule adopted under authorization of this act by January 1, 2003.

Section 6. Directs the Office of Program Policy Analysis and Government Accountability (OPPAGA) to review the cost impact to the aerial application industry of the implementation of any rules adopted pursuant to this act. Requires OPPAGA to report its findings to the President of the Senate and the Speaker of the House of Representatives by January 1, 2003.

Section 7. Provides that this act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This CS would help to ensure that crop-spraying airplanes could not be used in biological warfare assaults upon the public. Aircraft owners would be required to obtain locks or equivalent security measures for the aircraft and any stored chemicals. Aircraft registration information would have to be submitted annually and the sale, purchase, or transfer of the aircraft to another person would have to be reported.

C. Government Sector Impact:

The Department of Agriculture and Consumer Services would have access to information concerning a pilot's area of application, Federal Aviation Administration licensure and the aircraft registration. The department has indicated that this CS has no fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
