

CHAMBER ACTION

1 The Committee on Agriculture recommends the following:

2  
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to agricultural and migrant labor;  
7 amending s. 381.008, F.S.; revising a definition; amending  
8 s. 381.0086, F.S.; requiring the Department of Health to  
9 adopt rules relating to residential migrant housing;  
10 providing guidelines for the filing of interstate  
11 clearance orders; amending s. 381.0087, F.S.; revising a  
12 provision relating to who may issue certain citations;  
13 requiring the department to provide notice of suspected  
14 violations; amending s. 403.088, F.S.; clarifying a  
15 provision relating to water pollution operation permits;  
16 amending s. 420.507, F.S.; requiring the Florida Housing  
17 Finance Corporation to utilize federal and state resources  
18 in a certain manner; amending s. 450.191, F.S.;  
19 authorizing and directing the Executive Office of the  
20 Governor to advise and consult on certain issues relating  
21 to migrant workers; directing the office to coordinate  
22 enforcement of certain provisions with the Department of  
23 Business and Professional Regulation; including farm labor

24 | contractors in the enforcement of certain laws;  
25 | authorizing and directing the office to cooperate with the  
26 | Agency for Workforce Innovation in the recruitment and  
27 | referral of migrant workers and certain other laborers;  
28 | amending s. 450.201, F.S.; providing a deadline for  
29 | appointments to the Legislative Commission on Migrant  
30 | Labor; providing a deadline for the commission's first  
31 | meeting; amending s. 450.211, F.S.; revising the  
32 | membership of the commission's advisory committee;  
33 | amending s. 450.231, F.S.; providing a deadline for  
34 | certain reports; amending s. 450.27, F.S.; providing a  
35 | popular name; amending s. 450.271, F.S.; authorizing the  
36 | department to enter into certain agreements with the  
37 | Secretary of Labor of the United States; amending s.  
38 | 450.28, F.S.; providing definitions; amending s. 450.30,  
39 | F.S.; revising requirements for retaking examinations for  
40 | renewal of certificates of registration; requiring fees  
41 | for certain programs to be deposited in the Professional  
42 | Regulation Trust Fund; amending s. 450.31, F.S.; providing  
43 | criteria for issuance or renewal of certificates of  
44 | registration; authorizing payment for certificates of  
45 | registration by cashier's check; increasing the  
46 | application fee for such registration; requiring fees to  
47 | be deposited in the Professional Regulation Trust Fund;  
48 | providing criteria for revocation, suspension, or refusal  
49 | to issue or renew certificates of registration; conforming  
50 | a provision; providing criteria for permanent revocation  
51 | or refusal to issue or renew certificates of registration;

52 | authorizing the department to inspect certain documents  
53 | upon receipt and acceptance of a certificate of  
54 | registration; creating s. 450.321, F.S.; creating the best  
55 | practices incentive program for farm labor contractors;  
56 | requiring farm labor contractors to meet certain  
57 | requirements; authorizing the department to enter into  
58 | certain partnership agreements; authorizing the department  
59 | to revoke certain designations; prohibiting the  
60 | unauthorized use of designations; limiting certain civil  
61 | liability of the department; requiring the department to  
62 | establish an incentive program; amending s. 450.33, F.S.;  
63 | removing department requirements for the suspension or  
64 | revocation of farm labor contractors' certificates of  
65 | registration; requiring farm labor contractors to keep  
66 | certain records; amending s. 450.34, F.S.; providing  
67 | certain prohibited acts for farm labor contractors;  
68 | amending s. 450.35, F.S.; prohibiting certain contracts or  
69 | employment; providing a penalty; amending s. 450.37, F.S.;  
70 | authorizing the department to enter into agreements with  
71 | other state agencies for certain purposes; amending s.  
72 | 450.38, F.S.; providing civil and criminal penalties for  
73 | minor and major violations; increasing certain civil  
74 | penalties; authorizing payment of certain civil penalties  
75 | by cashier's check; removing authorization to pay certain  
76 | civil penalties by cash; increasing the scope of where a  
77 | complaint may be filed; providing for a warning to  
78 | contractors committing minor violations; providing civil  
79 | penalties; authorizing the revocation of certificates of

80 registration under certain circumstances; requiring the  
 81 department to provide notice of suspected violations;  
 82 creating s. 450.39, F.S.; providing guidelines for the  
 83 sale of certain commodities to farmworkers; providing  
 84 penalties; amending s. 487.011, F.S.; providing a popular  
 85 name; amending ss. 487.012, 487.021, 487.025, 487.031,  
 86 487.041, 487.0435, 487.045, 487.046, 487.047, 487.049,  
 87 487.051, 487.0615, 487.071, 487.081, 487.091, 487.101,  
 88 487.111, 487.13, 487.156, 487.159, 487.161, 487.163,  
 89 487.171, and 487.175, F.S.; revising references to make  
 90 the "Florida Pesticide Law" part I of ch. 487, F.S.;  
 91 amending s. 482.242, F.S.; clarifying a provision relating  
 92 to the labeling and registration of approved pesticides;  
 93 creating s. 487.2011, F.S., the "Florida Agricultural  
 94 Worker Safety Act"; providing for administration by the  
 95 Department of Agriculture and Consumer Services; creating  
 96 s. 487.2021, F.S.; providing legislative intent; creating  
 97 s. 487.2031, F.S.; providing definitions; creating s.  
 98 487.2041, F.S.; providing enforcement of federal worker  
 99 protection regulations; creating s. 487.2051, F.S.;  
 100 requiring agricultural employers to make certain pesticide  
 101 information available; creating s. 487.2061, F.S.;  
 102 prohibiting certain acts; creating s. 487.2071, F.S.;  
 103 providing penalties; requiring monitoring and reporting of  
 104 complaints; amending ss. 500.03 and 570.44, F.S.;  
 105 clarifying provisions relating to the definition of the  
 106 term "pesticide chemical" and duties of the Division of  
 107 Agricultural Environmental Services, respectively;

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108 directing the Division of Statutory Revision to designate  
109 parts I and II of ch. 487, F.S.; providing an effective  
110 date.

111

112 Be It Enacted by the Legislature of the State of Florida:

113

114 Section 1. Subsection (8) of section 381.008, Florida  
115 Statutes, is amended to read:

116 381.008 Definitions of terms used in ss. 381.008-  
117 381.00897.--As used in ss. 381.008-381.00897, the following  
118 words and phrases mean:

119 (8) "Residential migrant housing"--A building, structure,  
120 mobile home, barracks, or dormitory, and any combination thereof  
121 on adjacent property which is under the same ownership,  
122 management, or control, and the land appertaining thereto, that  
123 is rented or reserved for occupancy by five or more seasonal or  
124 migrant farmworkers, except:

125 (a) Housing furnished as an incident of employment.

126 (b) A single-family residence or mobile home dwelling unit  
127 that is occupied only by a single family and that is not under  
128 the same ownership, management, or control as other farmworker  
129 housing to which it is adjacent or contiguous.

130 (c) A hotel, motel, or resort condominium, as defined in  
131 chapter 509, that is furnished for transient occupancy.

132 (d) Any housing owned or operated by a public housing  
133 authority except for housing which is specifically provided for  
134 persons whose principal income is derived from agriculture.

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135 Section 2. Subsection (1) of section 381.0086, Florida  
136 Statutes, is amended, and subsection (6) is added to said  
137 section, to read:

138 381.0086 Rules; variances; penalties.--

139 (1) The department shall adopt rules necessary to protect  
140 the health and safety of migrant farmworkers ~~farm workers~~ and  
141 other migrant labor camp or residential migrant housing  
142 occupants, including rules governing field sanitation  
143 facilities. These rules must include definitions of terms,  
144 provisions relating to plan review of the construction of new,  
145 expanded, or remodeled camps or residential migrant housing,  
146 sites, buildings and structures, personal hygiene facilities,  
147 lighting, sewage disposal, safety, minimum living space per  
148 occupant, bedding, food equipment, food storage and preparation,  
149 insect and rodent control, garbage, heating equipment, water  
150 supply, maintenance and operation of the camp, housing, or  
151 roads, and such other matters as the department finds to be  
152 appropriate or necessary to protect the life and health of the  
153 occupants. Housing operated by a public housing authority is  
154 exempt from the provisions of any administrative rule that  
155 conflicts with or is more stringent than the federal standards  
156 applicable to the housing.

157 (6) For the purposes of filing an interstate clearance  
158 order with the Agency for Workforce Innovation, if the housing  
159 is covered by 20 C.F.R. part 654, subpart E, no permanent  
160 structural variance referred to in subsection (2) is allowed.

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161 Section 3. Subsections (1) and (6) of section 381.0087,  
162 Florida Statutes, are amended, and subsection (9) is added to  
163 said section, to read:

164 381.0087 Enforcement; citations.--

165 (1) Department personnel ~~or crew chief compliance officers~~  
166 ~~employed by the Bureau of Compliance of the Florida Department~~  
167 ~~of Labor and Employment Security~~ may issue citations that  
168 contain an order of correction or an order to pay a fine, or  
169 both, for violations of ss. 381.008-381.00895 or the field  
170 sanitation facility rules adopted by the department when a  
171 violation of those sections or rules is enforceable by an  
172 administrative or civil remedy, or when a violation of those  
173 sections or rules is a misdemeanor of the second degree. A  
174 citation issued under this section constitutes a notice of  
175 proposed agency action. The recipient of a citation for a major  
176 deficiency, as defined by rule of the department, will be given  
177 a maximum of 48 hours to make satisfactory correction or  
178 demonstrate that provisions for correction are satisfactory.

179 (6) Any person who willfully refuses to sign and accept a  
180 citation issued by the department commits ~~or the Department of~~  
181 ~~Labor and Employment Security is guilty of~~ a misdemeanor of the  
182 second degree, punishable as provided in s. 775.082 or s.  
183 775.083.

184 (9) The department shall provide notice of any suspected  
185 violations of any law to the appropriate entity.

186 Section 4. Subsection (1) of section 403.088, Florida  
187 Statutes, is amended to read:

188 403.088 Water pollution operation permits; conditions.--

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189 (1) No person, without written authorization of the  
190 department, shall discharge into waters within the state any  
191 waste which, by itself or in combination with the wastes of  
192 other sources, reduces the quality of the receiving waters below  
193 the classification established for them. However, this section  
194 shall not be deemed to prohibit the application of pesticides to  
195 waters in the state for the control of insects, aquatic weeds,  
196 or algae, provided the application is performed pursuant to a  
197 program approved by the Department of Health, in the case of  
198 insect control, or the department, in the case of aquatic weed  
199 or algae control. The department is directed to enter into  
200 interagency agreements to establish the procedures for program  
201 approval. Such agreements shall provide for public health,  
202 welfare, and safety, as well as environmental factors. Approved  
203 programs must provide that only chemicals approved for the  
204 particular use by the United States Environmental Protection  
205 Agency or by the Department of Agriculture and Consumer Services  
206 may be employed and that they be applied in accordance with  
207 registered label instructions, state standards for such  
208 application, and the provisions of the Florida Pesticide Law,  
209 part I of chapter 487.

210 Section 5. Subsection (33) of section 420.507, Florida  
211 Statutes, is amended to read:

212 420.507 Powers of the corporation.--The corporation shall  
213 have all the powers necessary or convenient to carry out and  
214 effectuate the purposes and provisions of this part, including  
215 the following powers which are in addition to all other powers  
216 granted by other provisions of this part:



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217 (33) To receive federal funding in connection with the  
 218 corporation's programs directly from the Federal Government.  
 219 Federal and state resources shall be utilized, to the extent  
 220 feasible, in a manner that maximizes funding opportunities in  
 221 the state.

222 Section 6. Section 450.191, Florida Statutes, is amended  
 223 to read:

224 450.191 Executive Office of the Governor; powers and  
 225 duties.--

226 (1) The Executive Office of the Governor is authorized and  
 227 directed to:

228 (a) Advise and consult with employers of migrant workers  
 229 as to the ways and means of improving living conditions of  
 230 migrant seasonal workers.+

231 (b) Cooperate with the Department of Health in  
 232 establishing minimum standards of preventive and curative health  
 233 and of housing and sanitation in migrant labor camps and in  
 234 making surveys to determine the adequacy of preventive and  
 235 curative health services available to occupants of migrant labor  
 236 camps.+

237 (c) Provide coordination for the enforcement of ss.  
 238 381.008-381.0088 and ss. 450.27-450.38.+

239 (d) Cooperate with the Department of Business and  
 240 Professional Regulation ~~other departments of government~~ in  
 241 coordinating and enforcing all applicable labor laws, including,  
 242 but not limited to, those relating to private employment  
 243 agencies, child labor, wage payments, wage claims, and farm  
 244 labor contractors. ~~crew leaders.~~+

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245 (e) Cooperate with the Department of Education to provide  
246 educational facilities for the children of migrant laborers.†

247 (f) Cooperate with the Department of Highway Safety and  
248 Motor Vehicles to establish minimum standards for the  
249 transporting of migrant laborers.†

250 (g) Cooperate with the Department of Agriculture and  
251 Consumer Services to conduct an education program for employers  
252 of migrant laborers pertaining to the standards, methods, and  
253 objectives of the office.†

254 (h) Cooperate with the Department of Children and Family  
255 Services in coordinating all public assistance programs as they  
256 may apply to migrant laborers.†

257 (i) Coordinate all federal, state, and local programs  
258 pertaining to migrant laborers.†

259 (j) Cooperate with the Agency for Workforce Innovation  
260 ~~farm labor office of the Department of Business and Professional~~  
261 ~~Regulation~~ in the recruitment and referral of migrant laborers  
262 and other persons for the planting, cultivation, and harvesting  
263 of agricultural crops in Florida.

264 (2) The office shall arrange, through the Department of  
265 Health, for the provision of the supplementary services set  
266 forth in paragraph (1)(b) to the extent of available  
267 appropriations. Such services may be provided through the use of  
268 one or more traveling dispensaries, or by contract with  
269 physicians, dentists, hospitals, or clinics, or in such manner  
270 as may be recommended by the Department of Health.

271 Section 7. Section 450.201, Florida Statutes, is amended  
272 to read:

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273 450.201 Legislative Commission on Migrant Labor;  
274 membership; filling vacancies.--

275 (1) There is created a permanent joint committee of the  
276 Florida Legislature to be known as the Legislative Commission on  
277 Migrant Labor, to be composed of three members of the Senate,  
278 appointed by the President of the Senate, and three members of  
279 the House of Representatives, appointed by the Speaker of the  
280 House. One member from each house shall be a member of the  
281 minority party. Any vacancy in the commission shall be filled by  
282 the respective presiding officer from the membership of the  
283 legislative body from which the vacancy occurred. However, a  
284 member who ceases to be a member of the legislative body from  
285 which appointed shall continue to be a member of the commission  
286 until the next succeeding regular session of the Legislature, at  
287 which the commission shall render its report to the Legislature.

288 (2) Appointments shall be made no later than March 1,  
289 2005.

290 (3) The first meeting of the commission shall be no later  
291 than July 1, 2005.

292 Section 8. Section 450.211, Florida Statutes, is amended  
293 to read:

294 450.211 Advisory committee; membership.--The Legislative  
295 Commission on Migrant Labor is authorized and directed to  
296 establish an advisory committee, which shall contain the  
297 following membership:

298 (1) One member representing the Department of Community  
299 Affairs.†

300 (2) One member representing the Department of Health.†

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301 (3) One member representing the Department of Agriculture  
302 and Consumer Services. +

303 (4) One member representing the Department of Education. +

304 (5) One member representing the Florida Farm Bureau  
305 Federation. +

306 ~~(6) One member representing the Florida State Federated~~  
307 ~~Labor Council.;~~

308 (6)(7) One member representing the Florida Fruit and  
309 Vegetable Association. +

310 (7)(8) One member representing the Florida Citrus Mutual.  
311 ~~Citrus Industrial Council.;~~

312 (8)(9) One member representing the Executive Office of the  
313 Governor. Florida Sugar Cane League.;

314 (9)(10) One member representing a not-for-profit entity  
315 that provides social services for migrant workers ~~Not fewer than~~  
316 ~~two or more than four other persons selected and appointed by~~  
317 ~~the commission.~~

318 (10) Two members representing farmworkers.

319 (11) One member representing migrant nonprofit housing  
320 interests.

321 (12) One member representing the Department of Business  
322 and Professional Regulation.

323 (13) One member representing the Agency for Workforce  
324 Innovation.

325 (14) One member representing the Department of Children  
326 and Family Services.

327 Section 9. Section 450.231, Florida Statutes, is amended  
328 to read:

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329           450.231 Annual reports to Legislature.--The commission  
330 shall report its findings, recommendations, and proposed  
331 legislation to each regular session of the Legislature no later  
332 than February 1 of each year beginning in 2006.

333           Section 10. Section 450.27, Florida Statutes, is amended  
334 to read:

335           450.27 Short title.--This part shall be known by the  
336 popular name ~~may be cited as~~ the "Farm Labor Contractor  
337 Registration Law."

338           Section 11. Section 450.271, Florida Statutes, is amended  
339 to read:

340           450.271 State administration of the Migrant and Seasonal  
341 Agricultural Worker Protection Act.--The Department of Business  
342 and Professional Regulation ~~Labor and Employment Security~~ may  
343 enter into agreements with the Secretary of Labor of the United  
344 States to authorize the department to administer within the  
345 State of Florida the provisions of the Migrant and Seasonal  
346 Agricultural Worker Protection Act of 1983, as amended.

347           Section 12. Subsections (5) and (6) are added to section  
348 450.28, Florida Statutes, to read:

349           450.28 Definitions.--

350           (5) "Minor violation" means a violation of a specific  
351 state or federal law or rule that does not present an imminent  
352 threat to the health, safety, or welfare of any employee of a  
353 farm labor contractor.

354           (6) "Major violation" means a violation of a specific  
355 state or federal law or rule that presents an imminent threat to

356 | the health, safety, or welfare of any employee of a farm labor  
 357 | contractor.

358 | Section 13. Subsections (6) and (7) of section 450.30,  
 359 | Florida Statutes, are amended to read:

360 | 450.30 Requirement of certificate of registration;  
 361 | education and examination program.--

362 | (6) The department shall require an applicant for renewal  
 363 | of a certificate of registration to retake the examination only  
 364 | if:

365 | (a) During the prior certification period, the department  
 366 | issued a final order assessing a civil monetary penalty for a  
 367 | major violation of this part or revoked or refused to renew or  
 368 | issue a certificate of registration; or

369 | (b) The department determines that new requirements  
 370 | related to the duties and responsibilities of a farm labor  
 371 | contractor necessitate a new examination.

372 | (7) The department shall charge each applicant a \$35 fee  
 373 | for the education and examination program. Such fees shall be  
 374 | deposited in the Professional Regulation ~~Crew Chief Registration~~  
 375 | Trust Fund.

376 | Section 14. Subsections (1) and (2) of section 450.31,  
 377 | Florida Statutes, are amended, and subsections (5) and (6) are  
 378 | added to said section, to read:

379 | 450.31 Issuance, revocation, and suspension of, and  
 380 | refusal to issue or renew, certificate of registration.--

381 | (1) The department shall not issue to any person a  
 382 | certificate of registration as a farm labor contractor, nor  
 383 | shall it renew such certificate, until:

384 (a) Such person has executed a written application  
 385 therefor in a form and pursuant to regulations prescribed by the  
 386 department and has submitted such information as the department  
 387 may prescribe.

388 (b) Such person has obtained and holds a valid federal  
 389 certificate of registration as a farm labor contractor, or a  
 390 farm labor contractor employee, unless exempt by federal law.

391 (c) Such person pays to the department, by cashier's check  
 392 ~~in cash~~, certified check, or money order, a nonrefundable  
 393 application fee of \$125 ~~\$75~~. Fees collected by the department  
 394 under this subsection shall be deposited in the State Treasury  
 395 into the Professional Regulation Crew Chief Registration Trust  
 396 Fund, ~~which is hereby created~~, and shall be utilized for  
 397 administration of this part.

398 (d) Such person has successfully taken and passed the farm  
 399 labor contractor examination.

400 (e) Such person has designated an agent to receive service  
 401 of process and other official or legal documents. The agent must  
 402 be available during regular business hours, Monday through  
 403 Friday, to accept service on behalf of the farm labor  
 404 contractor.

405 (2) The department may revoke, suspend, or refuse to issue  
 406 or renew any certificate of registration when it is shown that  
 407 the farm labor contractor has:

408 (a) Violated or failed to comply with any provision of  
 409 this part or the rules adopted pursuant to this part ~~s. 450.36~~.

410 (b) Made any misrepresentation or false statement in his  
 411 or her application for a certificate of registration.

412 (c) Given false or misleading information concerning  
 413 terms, conditions, or existence of employment to persons who are  
 414 recruited or hired to work on a farm.

415 (d) A civil fine, assessed by the department, that remains  
 416 unpaid.

417 (e) Failed to pay unemployment compensation taxes as  
 418 determined by the Agency for Workforce Innovation.

419 (f) Been denied a federal certificate of registration as a  
 420 farm labor contractor or has had such certificate suspended or  
 421 revoked.

422 (g) Failed to pay federal employee taxes as determined by  
 423 the Internal Revenue Service.

424 (5) The department may permanently refuse to issue or  
 425 renew or may revoke the certificate of registration if such  
 426 applicant or certificateholder has been convicted within the  
 427 preceding 5 years of:

428 (a) Any crime under state or federal law relating to  
 429 gambling, or to the sale, distribution, or possession of  
 430 alcoholic beverages, in connection with, or incident to, any  
 431 farm labor contracting activities; or

432 (b) Any felony under state or federal law involving  
 433 robbery, bribery, extortion, embezzlement, grand larceny,  
 434 burglary, arson, violation of narcotics laws, murder, rape,  
 435 assault with intent to kill, assault that inflicts grievous  
 436 bodily injury, prostitution, peonage, or smuggling or harboring  
 437 individuals who have entered the country illegally.

438 (6) Receipt and acceptance of a certificate of  
 439 registration as a farm labor contractor constitutes



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440 unconditional permission for, and complete acquiescence to, any  
 441 inspection by department personnel of books, ledgers, and all  
 442 other documents that are related to the performance of farm  
 443 labor activities.

444 Section 15. Section 450.321, Florida Statutes, is created  
 445 to read:

446 450.321 Best practices incentive program for farm labor  
 447 contractors.--

448 (1) To promote compliance with this part, and to help the  
 449 public identify farm labor contractors who have demonstrated a  
 450 firm commitment to responsible and safe labor practices, the  
 451 department shall develop and implement a best practices program.

452 (2) Farm labor contractors desiring designation as a best  
 453 practices farm labor contractor must meet requirements  
 454 established by the department. The designation is  
 455 nontransferable.

456 (3) The department is authorized to enter into partnership  
 457 agreements with farm labor contractors to memorialize the  
 458 responsibilities of each party to the agreement regarding the  
 459 requirements to receive and maintain a best practices  
 460 designation. Recipients of a designation as a best practices  
 461 farm labor contractor may use this designation when soliciting  
 462 business, while the designation is in effect.

463 (4) A designation as a best practices farm labor  
 464 contractor may be revoked if the department determines that the  
 465 recipient of the designation has failed to comply with any of  
 466 the requirements. Upon revocation, the recipient of the

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467 designation must cease all solicitation using the best practices  
468 farm labor contractor designation.

469 (5) The unauthorized use of the designation as a best  
470 practices farm labor contractor is prohibited. The grant of a  
471 designation as a best practices farm labor contractor shall not  
472 constitute endorsement of the recipient by the department, nor  
473 may it be characterized as such.

474 (6) In no event may the department be held liable in any  
475 civil action for any damages resulting from the granting,  
476 denying, suspending, or revoking of a designation as a best  
477 practices farm labor contractor.

478 (7) The department shall establish an incentive program  
479 for farm labor contractors receiving best practices designation.

480 Section 16. Subsection (10) of section 450.33, Florida  
481 Statutes, is amended, and subsection (11) is added to said  
482 section, to read:

483 450.33 Duties of farm labor contractor.--Every farm labor  
484 contractor must:

485 (10) Comply with all applicable statutes, rules, and  
486 regulations of the United States and of the State of Florida for  
487 the protection or benefit of labor, including, but not limited  
488 to, those providing for wages, hours, fair labor standards,  
489 social security, workers' compensation, unemployment  
490 compensation, child labor, and transportation. ~~The department~~  
491 ~~shall not suspend or revoke a certificate of registration~~  
492 ~~pursuant to this subsection unless:~~

493 ~~(a) A court or agency of competent jurisdiction renders a~~  
494 ~~judgment or other final decision that a violation of one of the~~

495 ~~laws, rules, or regulations has occurred and, if invoked, the~~  
 496 ~~appellate process is exhausted;~~

497 ~~(b) An administrative hearing pursuant to ss. 120.569 and~~  
 498 ~~120.57 is held on the suspension or revocation and the~~  
 499 ~~administrative law judge finds that a violation of one of the~~  
 500 ~~laws, rules, or regulations has occurred and, if invoked, the~~  
 501 ~~appellate process is exhausted; or~~

502 ~~(c) The holder of a certificate of registration stipulates~~  
 503 ~~that a violation has occurred or defaults in the administrative~~  
 504 ~~proceedings brought to suspend or revoke his or her~~  
 505 ~~registration.~~

506 (11) Maintain accurate daily field records for each  
 507 employee actually paid by the farm labor contractor reflecting  
 508 the hours worked for the farm labor contractor and, if paid by  
 509 unit, the number of units harvested and the amount paid per  
 510 unit.

511 Section 17. Subsections (4) and (5) are added to section  
 512 450.34, Florida Statutes, to read:

513 450.34 Prohibited acts of farm labor contractor.--A  
 514 licensee may not:

515 (4) Retaliate against any person because the person has  
 516 filed a complaint or aided an investigation pursuant to this  
 517 part.

518 (5) Contract with or employ any person acting in the  
 519 capacity of a farm labor contractor, or performing activities  
 520 defined in s. 450.28(1), who does not have a current certificate  
 521 of registration issued by the department pursuant to the  
 522 requirements of this part.

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523 Section 18. Section 450.35, Florida Statutes, is amended  
524 to read:

525 450.35 Certain contracts or employment prohibited.--It is  
526 unlawful for any person to contract with or employ ~~for the~~  
527 ~~employment of farm workers with~~ any farm labor contractor as  
528 defined in this act until the labor contractor displays to him  
529 or her a current certificate of registration issued by the  
530 department pursuant to the requirements of this part. A  
531 violation of this section is subject to the penalty provided in  
532 s. 450.38(1).

533 Section 19. Section 450.37, Florida Statutes, is amended  
534 to read:

535 450.37 Cooperation with federal and state agencies.--The  
536 department shall, whenever appropriate, cooperate with any  
537 federal agency. The department is authorized and empowered to  
538 cooperate with and enter into agreements with any other agency  
539 of this state for the purpose of carrying out the provisions of  
540 this part and securing uniformity of regulations.

541 Section 20. Section 450.38, Florida Statutes, is amended  
542 to read:

543 450.38 Enforcement of farm labor ~~contractor~~ laws.--

544 (1) Any person, firm, association, or corporation ~~not~~  
545 ~~excluded under s. 450.29~~ who commits a minor violation ~~violates~~  
546 ~~any provision~~ of this part and, upon conviction, is guilty of  
547 ~~commits~~ a misdemeanor of the second degree, is punishable as  
548 provided in s. 775.082 or s. 775.083.

549 (2) Any person, firm, association, or corporation who  
550 commits a major violation of this part and, upon conviction, is

551 guilty of a felony of the third degree, is punishable as  
 552 provided in s. 775.082, s. 775.083, or s. 775.084.

553 (3)(2) Any person who, ~~on or after June 19, 1985,~~ commits  
 554 a violation of this part or of any rule adopted thereunder may  
 555 be assessed a civil penalty of not more than \$2,000 ~~\$1,000~~ for  
 556 each such violation. Such assessed penalties shall be paid by  
 557 cashier's check ~~in cash~~, certified check, or money order and  
 558 shall be deposited into the General Revenue Fund. The department  
 559 shall not institute or maintain any administrative proceeding to  
 560 assess a civil penalty under this subsection when the violation  
 561 is the subject of a criminal indictment or information under  
 562 this section which results in a criminal penalty being imposed,  
 563 or of a criminal, civil, or administrative proceeding by the  
 564 United States government or an agency thereof which results in a  
 565 criminal or civil penalty being imposed. The department may  
 566 adopt rules prescribing the criteria to be used to determine the  
 567 amount of the civil penalty and to provide notification to  
 568 persons assessed a civil penalty under this section.

569 (4)(3) Upon a complaint of the department being filed in  
 570 the circuit court of the county in which the farm labor  
 571 contractor resides or may be doing business, any farm labor  
 572 contractor who fails to obtain a certificate of registration as  
 573 required by this part may, in addition to such penalties, be  
 574 enjoined from engaging in any activity which requires the farm  
 575 labor contractor to possess a certificate of registration.

576 (5)(4) For the purpose of any investigation or proceeding  
 577 conducted by the department, the secretary of the department or  
 578 the secretary's designee shall have the power to administer

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579 oaths, take depositions, make inspections when authorized by  
 580 statute, issue subpoenas which shall be supported by affidavit,  
 581 serve subpoenas and other process, and compel the attendance of  
 582 witnesses and the production of books, papers, documents, and  
 583 other evidence. The secretary of the department or the  
 584 secretary's designee shall exercise this power on the  
 585 secretary's own initiative.

586 (6) A farm labor contractor who commits a minor violation  
 587 of this part shall be issued a warning for the first violation.  
 588 A civil penalty in increments of \$250 may be assessed for each  
 589 successive violation of a specific statute or rule of this part  
 590 within a 2-year period from the date of the first violation.  
 591 After reaching the \$2,500 maximum amount of a cumulative fine  
 592 for minor violations, the certificate of registration may be  
 593 revoked.

594 (7) A farm labor contractor who commits a major violation  
 595 of a specific statute or rule of this part shall be assessed a  
 596 civil penalty of at least \$750 for the first violation, of at  
 597 least \$1,500 for the second violation, and of not more than  
 598 \$2,500 for the third such violation within a 2-year period from  
 599 the date of the first violation. The certificate of registration  
 600 may be revoked for the fourth such violation within a 2-year  
 601 period from the date of the first violation.

602 (8) The department shall provide notice of any suspected  
 603 violations of any law to the appropriate entity.

604 Section 21. Section 450.39, Florida Statutes, is created  
 605 to read:

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606        450.39 Required purchase of goods or services solely from  
607 any person prohibited against excessive charges.--

608        (1) No farm labor contractor shall require any farmworker  
609 to purchase goods or services solely from such farm labor  
610 contractor or any other person acting as an agent for such farm  
611 labor contractor. A violation of this subsection is a felony of  
612 the third degree, punishable as provided in s. 775.082, s.  
613 775.083, or s. 775.084.

614        (2) No farm labor contractor shall charge a farmworker  
615 more than a reasonable cost for any commodity, including  
616 housing, food, water, or other consumables, in accordance with  
617 Title 29 C.F.R. 531.3. "Reasonable cost" is defined as not being  
618 able to make a profit off the product supplied to the  
619 farmworker. A violation and conviction of this subsection is  
620 subject to the penalties as provided in s. 450.38(2).

621        Section 22. Section 487.011, Florida Statutes, is amended  
622 to read:

623        487.011 Popular name ~~Short title~~; administration.--This  
624 part shall ~~chapter may~~ be known by the popular name ~~cited as~~ the  
625 "Florida Pesticide Law" and shall be administered by the  
626 Department of Agriculture and Consumer Services.

627        Section 23. Section 487.012, Florida Statutes, is amended  
628 to read:

629        487.012 Declaration of purpose.--The purpose of this part  
630 ~~chapter~~ is to regulate the distribution, sale, and use of  
631 pesticides, except as provided in chapters 388 and 482, and to  
632 protect people and the environment from the adverse effects of  
633 pesticides.

634 Section 24. Section 487.021, Florida Statutes, is amended  
635 to read:

636 487.021 Definitions.--For the purpose of this part  
637 ~~chapter~~:

638 (1) "Acceptable release rate" means a measured release  
639 rate not exceeding 4.0 micrograms per square centimeter per day  
640 at steady state conditions as determined in accordance with a  
641 United States Environmental Protection Agency testing data call-  
642 in notice of July 29, 1986, on tributyltin in antifouling paints  
643 under the Federal Insecticide, Fungicide, and Rodenticide Act, 7  
644 U.S.C. s. 136, or at a rate established by the department.

645 (2) "Active ingredient" means:

646 (a) In the case of a pesticide other than a plant  
647 regulator, defoliant, or desiccant, an ingredient which will  
648 prevent, destroy, repel, or mitigate insects, nematodes, fungi,  
649 rodents, weeds, or other pests.

650 (b) In the case of a plant regulator, an ingredient which,  
651 through physiological action, will accelerate or retard the rate  
652 of growth or rate of maturation, or otherwise alter the  
653 behavior, of ornamental or crop plants or the produce thereof.

654 (c) In the case of a defoliant, an ingredient which will  
655 cause the leaves or foliage to drop from a plant.

656 (d) In the case of a desiccant, an ingredient which will  
657 artificially accelerate the drying of plant tissue.

658 (3) "Added ingredient" means any plant nutrient or plant  
659 regulator added to the mixture which is not an active pesticidal  
660 ingredient, but which the manufacturer wishes to show on the  
661 label.



662 (4) "Adulterated" applies to any pesticide if its strength  
 663 or purity falls below or is in excess of the professed standard  
 664 of quality as expressed on labeling or under which it is sold,  
 665 if any substance has been substituted wholly or in part for the  
 666 pesticide or if any valuable constituent of the pesticide has  
 667 been wholly or in part abstracted.

668 (5) "Advertisement" means all representations disseminated  
 669 in any manner or by any means other than by labeling, for the  
 670 purpose of inducing, or which are likely to induce, directly or  
 671 indirectly, the purchase of pesticides.

672 (6) "Age of majority" means any natural person 18 years of  
 673 age or older, or an emancipated minor.

674 (7) "Aircraft" means any machine designed for flight and  
 675 for use in applying pesticides.

676 (8) "Animal" means all vertebrate and invertebrate  
 677 species, including, but not limited to, humans and other  
 678 mammals, birds, fish, and shellfish.

679 (9) "Antidote" means the most practical immediate  
 680 treatment for poisoning and includes first aid treatment.

681 (10) "Antifouling paint" means a coating, paint, or  
 682 treatment that is intended for use as a pesticide, as defined in  
 683 this section, to control freshwater or marine fouling organisms.

684 (11) "Antisiphon device" means a safety device used to  
 685 prevent the backflow of a mixture of water and chemicals into  
 686 the water supply.

687 (12) "Batch" or "lot" means a quantity of pesticide  
 688 produced or packaged and readily identified by numbers, letters,  
 689 or other symbols.

690 (13) "Brand" means the name, number, trademark, or any  
691 other designation which distinguishes one pesticide product from  
692 another.

693 (14) "Certification" means the recognition by the  
694 department that an individual is a competent pesticide  
695 applicator and, thus, is eligible for licensure in one or more  
696 of the designated license types and categories.

697 (15) "Certified applicator" means any individual who has  
698 been recognized by the department as a competent pesticide  
699 applicator and, thus, is eligible to apply for licensure in one  
700 or more of the designated license types and categories.

701 (16) "Commercial applicator" means an individual who has  
702 reached the age of majority and is licensed by the department to  
703 use or supervise the use of any restricted-use pesticide for any  
704 purpose on any property other than as provided by the  
705 definitions of "private applicator," "product specific  
706 applicator," or "public applicator," whether or not the  
707 individual is a private applicator with respect to some uses.

708 (17) "Dealer" means any person, other than the  
709 manufacturer or distributor, who offers for sale, sells,  
710 barter, or otherwise supplies pesticides to the ultimate user  
711 or consumer.

712 (18) "Deficiency" means the amount of an active ingredient  
713 of a pesticide by which it fails to come up to its guaranteed  
714 analysis when analyzed.

715 (19) "Defoliant" means any substance or mixture of  
716 substances intended for causing the leaves or foliage to drop  
717 from a plant, with or without causing abscission.

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718 (20) "Department" means the Department of Agriculture and  
719 Consumer Services or its authorized representative.

720 (21) "Desiccant" means any substance or mixture of  
721 substances intended for artificially accelerating the drying of  
722 plant tissues.

723 (22) "Device" means any instrument or contrivance (other  
724 than a firearm) which is intended for trapping, destroying,  
725 repelling, or mitigating, any pest or other form of plant or  
726 animal life (other than human and other than bacteria, virus, or  
727 other microorganism on or in living humans or other living  
728 animals); but not including equipment used for the application  
729 of pesticides when sold separately.

730 (23) "Distribute" means to offer for sale, hold for sale,  
731 sell, barter, or supply pesticides in this state.

732 (24) "Distributor" means any person who offers for sale,  
733 holds for sale, sells, barter, or supplies pesticides in this  
734 state.

735 (25) "Emergency exemption" means an exemption as  
736 authorized in s. 18 of the Federal Insecticide, Fungicide, and  
737 Rodenticide Act.

738 (26) "Environment" means all water, air, land, plants, and  
739 animals, and their relationships with one another.

740 (27) "Equipment" means any type of ground, aquatic, or  
741 aerial device used to apply any pesticide on land, and on  
742 anything that may be growing, habituating, or stored on or in  
743 the land. Equipment does not include any pressurized hand-size  
744 household device used to apply any pesticide, or any other

745 | device where the person applying the pesticide is the source of  
746 | power for applying the pesticide.

747 |       (28) "Excess" means the amount of an active ingredient of  
748 | a pesticide found by analysis to be over the guaranteed amount.

749 |       (29) "Experimental use permit" means a permit issued by  
750 | the department or by the United States Environmental Protection  
751 | Agency as authorized in s. 5 of the Federal Insecticide,  
752 | Fungicide, and Rodenticide Act.

753 |       (30) "Fungi" means all non-chlorophyll-bearing  
754 | thallophytes (that is, all non-chlorophyll-bearing plants of a  
755 | lower order than mosses and liverworts), as, for example, rusts,  
756 | smuts, mildews, molds, yeasts, and bacteria, except those on or  
757 | in living humans or other animals.

758 |       (31) "Highly toxic" means any highly poisonous pesticide  
759 | as determined by the rules promulgated pursuant to this part  
760 | ~~chapter~~.

761 |       (32) "Imminent hazard" means a situation which exists when  
762 | the continued use of a pesticide during the time required for  
763 | cancellation proceedings would be likely to result in  
764 | unreasonable adverse effects on the environment or will involve  
765 | unreasonable hazard to the survival of a species declared  
766 | endangered.

767 |       (33) "Ineffective" means that pesticides such as  
768 | bacteriostats, disinfectants, germicides, sanitizers, and like  
769 | products fail to meet microbiological claims when tested in the  
770 | laboratory utilizing the officially approved procedures of the  
771 | Association of Official Analytical Chemists or other methods or  
772 | procedures as the department may find necessary.

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773 (34) "Inert ingredient" means an ingredient which is not  
774 an active ingredient.

775 (35) "Ingredient statement" means a statement of the name  
776 and percentage by weight of each active ingredient, together  
777 with the total percentage of the inert ingredients in the  
778 pesticides.

779 (36) "Insect" means any of the numerous small invertebrate  
780 animals generally having the body more or less obviously  
781 segmented, for the most part belonging to the class Insecta,  
782 comprising six legs, usually in winged form (as, for example,  
783 beetles, bugs, bees, and flies) and to other allied classes and  
784 arthropods whose members are wingless and usually have more than  
785 six legs (as, for example, spiders, mites, ticks, centipedes,  
786 and wood lice).

787 (37) "Irrigation system" means any device or combination  
788 of devices having a hose, pipe, or other conduit which connects  
789 directly to any source of ground or surface water, through which  
790 device or combination of devices water or a mixture of water and  
791 chemicals is drawn and applied for agricultural purposes. The  
792 term does not include any handheld hose sprayer or other similar  
793 device which is constructed so that an interruption in water  
794 flow automatically prevents any backflow to the water source.

795 (38) "Label" means the written, printed, or graphic matter  
796 on or attached to a pesticide, device, or immediate and outside  
797 container or wrappers of such pesticide or device.

798 (39) "Labeling" means all labels and other written,  
799 printed, or graphic matter referencing the pesticide or device  
800 or upon any of its containers or wrappers, or accompanying the

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801 pesticide or device at any time, but does not include accurate,  
 802 nonmisleading reference to current official publications of the  
 803 United States Departments of Agriculture or Interior, the  
 804 Environmental Protection Agency, the United States Public Health  
 805 Service, state experiment stations, state agricultural colleges,  
 806 or other similar federal institutions or official agencies of  
 807 this state or other states authorized by law to conduct research  
 808 in the field of pesticides.

809 (40) "Land" means all land and water areas, including  
 810 airspace.

811 (41) "Licensed applicator" means an individual who has  
 812 reached the age of majority and is authorized by license from  
 813 the department to use or supervise the use of any restricted-use  
 814 pesticide covered by the license.

815 (42) "Manufacturer" means a person engaged in the business  
 816 of importing, producing, preparing, mixing, formulating, or  
 817 reformulating pesticides for the purpose of distribution.

818 (43) "Mixer-loader" means any individual who handles open  
 819 containers or otherwise prepares, processes, or dilutes  
 820 pesticides in preparation for final application.

821 (44) "Nematode" means invertebrate animals of the phylum  
 822 Nemathelminthes and class Nematoda (that is, unsegmented round  
 823 worms with elongated, fusiform, or saclike bodies covered with  
 824 cuticle and inhabiting soil, water, plants, or plant parts), and  
 825 may also be known as nemas or eelworms.

826 (45) "Official sample" means any sample of a pesticide  
 827 taken by the department in accordance with the provisions of

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828 | this part ~~chapter~~ or rules adopted under this part ~~chapter~~, and  
829 | designated as official by the department.

830 |       (46) "Organotin compound" means any compound of tin used  
831 | as a biocide in an antifouling paint.

832 |       (47) "Percent" means one one-hundredth part by weight or  
833 | volume.

834 |       (48) "Pest" means:

835 |       (a) Any insect, rodent, nematode, fungus, weed; or

836 |       (b) Any other form of terrestrial or aquatic plant or  
837 | animal life or virus, bacteria, or other microorganism, except  
838 | viruses, bacteria, or other microorganisms on or in living  
839 | humans or other living animals, which is declared to be a pest  
840 | by the administrator of the United States Environmental  
841 | Protection Agency or which may be declared to be a pest by the  
842 | department by rule.

843 |       (49) "Pesticide" means any substance or mixture of  
844 | substances intended for preventing, destroying, repelling, or  
845 | mitigating any insects, rodents, nematodes, fungi, weeds, or  
846 | other forms of plant or animal life or viruses, except viruses,  
847 | bacteria, or fungi on or in living humans or other animals,  
848 | which the department by rule declares to be a pest, and any  
849 | substance or mixture of substances intended for use as a plant  
850 | regulator, defoliant, or desiccant; however, the term  
851 | "pesticide" does not include any article that:

852 |       (a) Is a "new animal drug" within the meaning of s. 201(w)  
853 | of the Federal Food, Drug, and Cosmetic Act;

854 |       (b) Has been determined by the Secretary of the United  
855 | States Department of Health and Human Services not to be a new

856 animal drug by a regulation establishing conditions of use for  
857 the article; or

858 (c) Is an animal feed within the meaning of s. 201(x) of  
859 the Federal Food, Drug, and Cosmetic Act bearing or containing  
860 an article covered in this subsection.

861 (50) "Plant nutrient" means any ingredient that furnishes  
862 nourishment to the plant or promotes its growth in a normal  
863 manner.

864 (51) "Plant regulator" means any substance or mixture of  
865 substances intended, through physiological action, for  
866 accelerating or retarding the rate of growth or maturation, or  
867 for otherwise altering the behavior, of ornamental or crop  
868 plants or the produce thereof; but does not include substances  
869 intended as plant nutrients, trace elements, nutritional  
870 chemicals, plant inoculants, or soil amendments.

871 (52) "Private applicator" means an individual who has  
872 reached the age of majority and is licensed by the department to  
873 use or supervise the use of any restricted-use pesticide for  
874 purposes of producing any agricultural commodity on property  
875 owned or rented by his or her employer, or, if applied without  
876 compensation other than the trading of personal services between  
877 producers of agricultural commodities, on the property of  
878 another person.

879 (53) "Product" means a unique pesticide and label as  
880 distinguished by its individually assigned United States  
881 Environmental Protection Agency registration number, special  
882 local need registration number, or experimental use permit  
883 number.



884 (54) "Protect health and the environment" means protection  
885 against any unreasonable adverse effects on people or the  
886 environment.

887 (55) "Public applicator" means an individual who has  
888 reached the age of majority and is licensed by the department to  
889 use or supervise the use of restricted-use pesticides as an  
890 employee of a state agency, municipal corporation, or other  
891 governmental agency.

892 (56) "Product specific applicator" means an individual who  
893 has reached the age of majority and is licensed by the  
894 department to use or supervise the use of a particular  
895 restricted-use pesticide product that is identified on the  
896 license by the United States Environmental Protection Agency  
897 registration number, as well as any Florida special local need  
898 registration number and any specific identifying information as  
899 deemed appropriate for nonfederally registered products exempt  
900 under s. 18 of the Federal Insecticide, Fungicide, and  
901 Rodenticide Act, provided that the restricted-use pesticide  
902 product is used for the purpose of producing agricultural  
903 commodities on property owned or rented by the licensee or the  
904 licensee's employer, or is applied on the property of another  
905 person without compensation other than trading of personal  
906 services between producers of agricultural commodities.

907 (57) "Registrant" means the person registering any  
908 pesticide pursuant to the provisions of this part ~~chapter~~.

909 (58) "Restricted-use pesticide" means a pesticide which,  
910 when applied in accordance with its directions for use,  
911 warnings, and cautions and for uses for which it is registered

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912 | or for one or more such uses, or in accordance with a widespread  
 913 | and commonly recognized practice, may generally cause, without  
 914 | additional regulatory restrictions, unreasonable adverse effects  
 915 | on the environment, or injury to the applicator or other  
 916 | persons, and which has been classified as a restricted-use  
 917 | pesticide by the department or the administrator of the United  
 918 | States Environmental Protection Agency.

919 |       (59) "Sell or sale" includes exchanges.

920 |       (60) "Special local need registration" means a state  
 921 | registration issued by the department as authorized in s. 24(c)  
 922 | of the Federal Insecticide, Fungicide, and Rodenticide Act.

923 |       (61) "Special review" is a process for reviewing selected  
 924 | pesticides based upon information that the pesticides have been  
 925 | found to present environmental or health concerns not considered  
 926 | in the registration process or that data submitted in support of  
 927 | registration are inadequate or outdated.

928 |       (62) "Tolerance" means the deviation from the guaranteed  
 929 | analysis permitted by law.

930 |       (63) "Transportation of pesticides in bulk" means the  
 931 | movement of a pesticide which is held in an individual container  
 932 | in undivided quantities of greater than 55 U.S. gallons liquid  
 933 | measure or 100 pounds net dry weight.

934 |       (64) "Under the direct supervision of a licensed  
 935 | applicator" means, unless otherwise prescribed by its labeling,  
 936 | a pesticide that must be applied by a competent person acting  
 937 | under the instruction and control of a licensed applicator who  
 938 | is available if and when needed, even though the licensed

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939 applicator is not physically present when the pesticide is  
940 applied.

941 (65) "Unreasonable adverse effects on the environment"  
942 means any unreasonable risk to humans or the environment, taking  
943 into account the economic, social, and environmental costs and  
944 benefits of the use of any pesticide.

945 (66) "Vessel" means any type of watercraft or other  
946 artificial contrivance used, or capable of being used, as a  
947 means of transportation on water.

948 (67) "Weed" means any plant which grows where not wanted.  
949 Section 25. Subsection (2) of section 487.025, Florida  
950 Statutes, is amended to read:

951 487.025 Misbranding.--

952 (2) A pesticide is misbranded if:

953 (a) It is an imitation of, or is offered for sale under  
954 the name of, another pesticide.

955 (b) Its labeling bears any reference to registration under  
956 this part ~~chapter~~.

957 (c) The labeling accompanying it does not contain  
958 instructions for use which are necessary and, if complied with,  
959 adequate for the protection of the public.

960 (d) The label does not contain a warning or caution  
961 statement which may be necessary and, if complied with, adequate  
962 to prevent injury to living humans and other vertebrate animals.

963 (e) The label does not bear an ingredient statement on  
964 that part of the immediate container, and on the outside  
965 container or wrapper, if there is one, through which the  
966 ingredient statement on the immediate container cannot be

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967 clearly read, of the retail package which is presented or  
968 displayed under customary conditions of purchase.

969 (f) Any word, statement, or other information required by  
970 or under authority of this part ~~chapter~~ to appear on the  
971 labeling is not prominently placed thereon with such  
972 conspicuousness, as compared with other words, statements,  
973 designs, or graphic matter in the labeling, and in such terms as  
974 to render it likely to be read and understood by the ordinary  
975 individual under customary conditions of purchase and use.

976 (g) It is injurious to living humans or other vertebrate  
977 animals or vegetation, except weeds, to which it is applied, or  
978 to the person applying such pesticide as directed or in  
979 accordance with commonly recognized practice.

980 (h) In the case of a plant regulator, defoliant, or  
981 desiccant, when used as directed, it is injurious to living  
982 humans or other vertebrate animals, or vegetation, to which it  
983 is applied, or to the person applying such pesticide. However,  
984 physical or physiological effects on plants or parts thereof  
985 shall not be deemed to be injury when this is the purpose for  
986 which the plant regulator, defoliant, or desiccant was applied  
987 in accordance with the label claims and recommendations.

988 (i) Any ingredient which is present in amounts which are  
989 not likely to be effective when used according to directions is  
990 given undue prominence or conspicuousness, as compared with  
991 ingredients which are present in effective amounts, in its  
992 labeling. Such ingredient shall appear only in the ingredient  
993 statement.

994 (j) It is found to be ineffective when tested in the  
995 laboratory.

996 (k) It is found by the department to be of short measure.  
997 Section 26. Subsections (2), (4), (5), and (13) of section  
998 487.031, Florida Statutes, are amended to read:

999 487.031 Prohibited acts.--It is unlawful:

1000 (2) To distribute, sell, or offer for sale within this  
1001 state any pesticide or product which has not been registered  
1002 pursuant to the provisions of this part ~~chapter~~, except  
1003 pesticides distributed, sold, offered for sale, or used in  
1004 accordance with the provisions of federal or state restriction,  
1005 supervision, or cancellation orders or other existing stock  
1006 agreements.

1007 (4) To detach, alter, deface, or destroy, in whole or in  
1008 part, any label or labeling provided for in this part ~~chapter~~ or  
1009 rules promulgated under this part ~~chapter~~, or to add any  
1010 substance to, or take any substance from, any pesticide in a  
1011 manner that may defeat the purpose of this part ~~chapter~~.

1012 (5) For any person to use for his or her own advantage or  
1013 to reveal any information relative to formulas of products  
1014 acquired by authority of this part ~~chapter~~, other than to: the  
1015 department, proper officials, or employees of the state; the  
1016 courts of this state in response to a subpoena; physicians,  
1017 pharmacists, and other qualified persons, in an emergency, for  
1018 use in the preparation of antidotes. The information relative to  
1019 formulas of products is confidential and exempt from the  
1020 provisions of s. 119.07(1).

1021 (13) For any person to:

- 1022 (a) Make a false or fraudulent claim through any medium,
- 1023 misrepresenting the effect of materials or methods used;
- 1024 (b) Make a pesticide recommendation or application not in
- 1025 accordance with the label, except as provided in this section,
- 1026 or not in accordance with recommendations of the United States
- 1027 Environmental Protection Agency or not in accordance with the
- 1028 specifications of a special local need registration;
- 1029 (c) Operate faulty or unsafe equipment;
- 1030 (d) Operate in a faulty, careless, or negligent manner;
- 1031 (e) Apply any pesticide directly to, or in any manner
- 1032 cause any pesticide to drift onto, any person or area not
- 1033 intended to receive the pesticide;
- 1034 (f) Fail to disclose to an agricultural crop grower, prior
- 1035 to the time pesticides are applied to a crop, full information
- 1036 regarding the possible harmful effects to human beings or
- 1037 animals and the earliest safe time for workers or animals to
- 1038 reenter the treated field;
- 1039 (g) Refuse or, after notice, neglect to comply with the
- 1040 provisions of this part ~~chapter~~, the rules adopted under this
- 1041 part ~~chapter~~, or any lawful order of the department;
- 1042 (h) Refuse or neglect to keep and maintain the records
- 1043 required by this part ~~chapter~~ or to submit reports when and as
- 1044 required;
- 1045 (i) Make false or fraudulent records, invoices, or
- 1046 reports;
- 1047 (j) Use fraud or misrepresentation in making an
- 1048 application for a license or license renewal;

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1049 (k) Refuse or neglect to comply with any limitations or  
1050 restrictions on or in a duly issued license;

1051 (l) Aid or abet a licensed or unlicensed person to evade  
1052 the provisions of this part ~~chapter~~, or combine or conspire with  
1053 a licensed or unlicensed person to evade the provisions of this  
1054 part ~~chapter~~, or allow a license to be used by an unlicensed  
1055 person;

1056 (m) Make false or misleading statements during or after an  
1057 inspection concerning any infestation or infection of pests  
1058 found on land;

1059 (n) Make false or misleading statements, or fail to  
1060 report, pursuant to this part ~~chapter~~, any suspected or known  
1061 damage to property or illness or injury to persons caused by the  
1062 application of pesticides;

1063 (o) Impersonate any state, county, or city inspector or  
1064 official;

1065 (p) Fail to maintain a current liability insurance policy  
1066 or surety bond as provided for in this part ~~chapter~~;

1067 (q) Fail to adequately train, as provided for in this part  
1068 ~~chapter~~, unlicensed applicators or mixer-loaders applying  
1069 restricted-use pesticides under the direct supervision of a  
1070 licensed applicator; or

1071 (r) Fail to provide authorized representatives of the  
1072 department with records required by this part ~~chapter~~ or with  
1073 free access for inspection and sampling of any pesticide, areas  
1074 treated with or impacted by these materials, and equipment used  
1075 in their application.

1076 Section 27. Subsections (2), (3), and (8) of section  
1077 487.041, Florida Statutes, are amended to read:

1078 487.041 Registration.--

1079 (2) For the purpose of defraying expenses of the  
1080 department in connection with carrying out the provisions of  
1081 this part ~~chapter~~, each person shall pay an annual registration  
1082 fee of \$250 for each registered pesticide. The annual  
1083 registration fee for each special local need label and  
1084 experimental use permit shall be \$100. All registrations expire  
1085 on December 31 of each year. Nothing in this section shall be  
1086 construed as applying to distributors or retail dealers selling  
1087 pesticides when such pesticides are registered by another  
1088 person.

1089 (3) The department shall adopt rules governing the  
1090 procedures for pesticide registration and for the review of data  
1091 submitted by an applicant for registration of a pesticide. The  
1092 department shall determine whether a pesticide should be  
1093 registered, registered with conditions, or tested under field  
1094 conditions in this state. The department shall determine that  
1095 all requests for pesticide registrations meet the requirements  
1096 of current state and federal law. The department, whenever it  
1097 deems it necessary in the administration of this part ~~chapter~~,  
1098 may require the manufacturer or registrant to submit the  
1099 complete formula, quantities shipped into or manufactured in the  
1100 state for distribution and sale, evidence of the efficacy and  
1101 the safety of any pesticide, and other relevant data. The  
1102 department may review and evaluate a registered pesticide if new  
1103 information is made available which indicates that use of the



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1104 pesticide has caused an unreasonable adverse effect on public  
 1105 health or the environment. Such review shall be conducted upon  
 1106 the request of the secretary of the Department of Health in the  
 1107 event of an unreasonable adverse effect on public health or the  
 1108 secretary of the Department of Environmental Protection in the  
 1109 event of an unreasonable adverse effect on the environment. Such  
 1110 review may result in modifications, revocation, cancellation, or  
 1111 suspension of a pesticide registration. The department, for  
 1112 reasons of adulteration, misbranding, or other good cause, may  
 1113 refuse or revoke the registration of any pesticide, after notice  
 1114 to the applicant or registrant giving the reason for the  
 1115 decision. The applicant may then request a hearing, pursuant to  
 1116 chapter 120, on the intention of the department to refuse or  
 1117 revoke registration, and, upon his or her failure to do so, the  
 1118 refusal or revocation shall become final without further  
 1119 procedure. In no event shall registration of a pesticide be  
 1120 construed as a defense for the commission of any offense  
 1121 prohibited under this part ~~chapter~~.

1122 (8) Nothing in this section affects the authority of the  
 1123 department to administer the pesticide registration program  
 1124 under this part ~~chapter~~ or the authority of the Commissioner of  
 1125 Agriculture to approve the registration of a pesticide.

1126 Section 28. Section 487.0435, Florida Statutes, is amended  
 1127 to read:

1128 487.0435 License classification.--The department shall  
 1129 issue certified applicator licenses in the following  
 1130 classifications: certified public applicator; certified private  
 1131 applicator; and certified commercial applicator. In addition,

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1132 separate classifications and subclassifications may be specified  
 1133 by the department in rule as deemed necessary to carry out the  
 1134 provisions of this part ~~chapter~~. Each classification shall be  
 1135 subject to requirements or testing procedures to be set forth by  
 1136 rule of the department and shall be restricted to the activities  
 1137 within the scope of the respective classification as established  
 1138 in statute or by rule. In specifying classifications, the  
 1139 department may consider, but is not limited to, the following:

1140 (1) Whether the license sought is for commercial, public,  
 1141 or private applicator status.

1142 (2) The method of applying the restricted-use pesticide.

1143 (3) The specific crops upon which restricted-use  
 1144 pesticides are applied.

1145 (4) The proximity of populated areas to the land upon  
 1146 which restricted-use pesticides are applied.

1147 (5) The acreage under the control of the licensee.

1148 (6) The pounds of technical restricted toxicant applied  
 1149 per acre per year by the licensee.

1150 Section 29. Section 487.045, Florida Statutes, is amended  
 1151 to read:

1152 487.045 Fees.--

1153 (1) The department shall establish applicable fees by  
 1154 rule. The fees shall not exceed \$250 for commercial applicators  
 1155 or \$100 for private applicators and public applicators, for  
 1156 initial licensing and for each subsequent license renewal. The  
 1157 fees shall be determined annually and shall represent department  
 1158 costs associated with enforcement of the provisions of this part  
 1159 ~~chapter~~.

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1160           (2) Fees collected under the provisions of this part  
 1161 ~~chapter~~ shall be deposited into the General Inspection Trust  
 1162 Fund and shall be used to defray expenses in the administration  
 1163 of this part ~~chapter~~.

1164           Section 30. Subsection (2) of section 487.046, Florida  
 1165 Statutes, is amended to read:

1166           487.046 Application; licensure.--

1167           (2) If the department finds the applicant qualified in the  
 1168 classification for which the applicant has applied, and if the  
 1169 applicant applying for a license to engage in aerial application  
 1170 of pesticides has met all of the requirements of the Federal  
 1171 Aviation Agency and the Department of Transportation of this  
 1172 state to operate the equipment described in the application and  
 1173 has shown proof of liability insurance or posted a surety bond  
 1174 in an amount to be set forth by rule of the department, the  
 1175 department shall issue a certified applicator's license, limited  
 1176 to the classifications for which the applicant is qualified. The  
 1177 license shall expire as required by rules promulgated under this  
 1178 part ~~chapter~~, unless it has been revoked or suspended by the  
 1179 department prior to expiration, for cause as provided in this  
 1180 part ~~chapter~~. The license or authorization card issued by the  
 1181 department verifying licensure shall be kept on the person of  
 1182 the licensee while performing work as a licensed applicator.

1183           Section 31. Section 487.047, Florida Statutes, is amended  
 1184 to read:

1185           487.047 Nonresident license; reciprocal agreement;  
 1186 authorized purchase.--

1187 (1) The department may waive all or part of the  
 1188 examination requirements provided for in this part ~~chapter~~ on a  
 1189 reciprocal basis with any other state or agency, or an Indian  
 1190 tribe, that has substantially the same or better standards.

1191 (2) Any nonresident applying for a license under this part  
 1192 ~~chapter~~ to operate in the state shall file a Designation of  
 1193 Registered Agent naming the Secretary of State as the agent of  
 1194 the nonresident, upon whom process may be served in the event of  
 1195 any suit against the nonresident. The designation shall be  
 1196 prepared on a form provided by the department and shall render  
 1197 effective the jurisdiction of the courts of this state over the  
 1198 nonresident applicant. However, any nonresident who has a duly  
 1199 appointed registered agent upon whom process may be served as  
 1200 provided by law shall not be required to designate the Secretary  
 1201 of State as registered agent. The Secretary of State shall be  
 1202 allowed the registered-agent fees as provided by law for  
 1203 designating registered agents. The department shall be furnished  
 1204 with a copy of the designation of the Secretary of State or of a  
 1205 registered agent which is certified by the Secretary of State.  
 1206 The Secretary of State shall notify the department of any  
 1207 service of process it receives as registered agent for persons  
 1208 licensed under this part ~~chapter~~.

1209 (3) Restricted-use pesticides may be purchased by any  
 1210 person who holds a valid applicator's license or who holds a  
 1211 valid purchase authorization card issued by the department or by  
 1212 a licensee under chapter 482 or chapter 388. A nonlicensed  
 1213 person may apply restricted-use pesticides under the direct  
 1214 supervision of a licensed applicator. An applicator's license

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1215 shall be issued by the department on a form supplied by it in  
1216 accordance with the requirements of this part ~~chapter~~.

1217 Section 32. Subsection (1) of section 487.049, Florida  
1218 Statutes, is amended to read:

1219 487.049 Renewal; late fee; recertification.--

1220 (1) The department shall require renewal of a certified  
1221 applicator's license at 4-year intervals from the date of  
1222 issuance. If the application for renewal of any license provided  
1223 for in this part ~~chapter~~ is not filed on time, a late fee shall  
1224 be assessed not to exceed \$50. However, the penalty shall not  
1225 apply if the renewal application is filed within 60 days after  
1226 the renewal date, provided the applicant furnishes an affidavit  
1227 certifying that he or she has not engaged in business subsequent  
1228 to the expiration of the license for a period not exceeding 60  
1229 days. A license may be renewed without taking another  
1230 examination unless the department determines that new knowledge  
1231 related to the classification for which the applicant has  
1232 applied makes a new examination necessary; however, the  
1233 department may require the applicant to provide evidence of  
1234 continued competency, as determined by rule. If the license is  
1235 not renewed within 60 days after ~~of~~ the expiration date, then  
1236 the licensee may again be required to take another examination,  
1237 unless there is some unavoidable circumstance which results in  
1238 the delay of the renewal of any license issued under this part  
1239 ~~chapter~~ which was not under the applicant's control.

1240 Section 33. Paragraph (b) of subsection (1) and subsection  
1241 (2) of section 487.051, Florida Statutes, are amended to read:

1242 487.051 Administration; rules; procedure.--

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1243           (1) The department may by rule:  
 1244           (b) Establish procedures for the taking and handling of  
 1245 samples and establish tolerances and deficiencies where not  
 1246 specifically provided for in this part ~~chapter~~; assess  
 1247 penalties; and prohibit the sale or use of pesticides or devices  
 1248 shown to be detrimental to human beings, the environment, or  
 1249 agriculture or to be otherwise of questionable value.

1250           (2) The department is authorized to adopt by rule the  
 1251 primary standards established by the United States Environmental  
 1252 Protection Agency with respect to pesticides. If the provisions  
 1253 of this part ~~chapter~~ are preempted in part by federal law, those  
 1254 provisions not preempted shall apply. This part ~~chapter~~ is  
 1255 intended as comprehensive and exclusive regulation of pesticides  
 1256 in this state. Except as provided in chapters 373, 376, 388,  
 1257 403, and 482, or as otherwise provided by law, no agency,  
 1258 commission, department, county, municipality, or other political  
 1259 subdivision of the state may adopt laws, regulations, rules, or  
 1260 policies pertaining to pesticides, including their registration,  
 1261 packaging, labeling, distribution, sale, or use, except that  
 1262 local jurisdictions may adopt or enforce an ordinance pertaining  
 1263 to pesticides if that ordinance is in the area of occupational  
 1264 license taxes, building and zoning regulations, disposal or  
 1265 spillage of pesticides within a water well zone, or pesticide  
 1266 safety regulations relating to containment at the storage site.

1267           Section 34. Subsection (4) of section 487.0615, Florida  
 1268 Statutes, is amended to read:

1269           487.0615 Pesticide Review Council.--

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1270 (4) The council is defined as a "substantially interested  
1271 person" and has standing under chapter 120 in any proceeding  
1272 conducted by the department relating to the registration of a  
1273 pesticide under this part ~~chapter~~. The standing of the council  
1274 shall in no way prevent individual members of the council from  
1275 exercising standing in these matters.

1276 Section 35. Section 487.071, Florida Statutes, is amended  
1277 to read:

1278 487.071 Enforcement, inspection, sampling, and analysis.--

1279 (1) The department is authorized to enter upon any public  
1280 or private premises or carrier where pesticides are known or  
1281 thought to be distributed, sold, offered for sale, held, stored,  
1282 or applied, during regular business hours in the performance of  
1283 its duties relating to pesticides and records pertaining to  
1284 pesticides. No person shall deny or refuse access to the  
1285 department when it seeks to enter upon any public or private  
1286 premises or carrier during business hours in performance of its  
1287 duties under this part ~~chapter~~.

1288 (2) The department is authorized and directed to sample,  
1289 test, inspect, and make analyses of pesticides sold, offered for  
1290 sale, distributed, or used within this state, at a time and  
1291 place and to such an extent as it may deem necessary, to  
1292 determine whether the pesticides or persons exercising control  
1293 over the pesticides are in compliance with the provisions of  
1294 this part ~~chapter~~, the rules adopted under this part ~~chapter~~,  
1295 and the provisions of the pesticide label or labeling.

1296 (3) The official analysis shall be made from the official  
1297 sample. A sealed and identified sample, herein called "official

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1298 | check sample" shall be kept until the analysis on the official  
 1299 | sample is completed. However, the registrant may obtain upon  
 1300 | request a portion of the official sample. Upon completion of the  
 1301 | analysis of the official sample, a true copy of the certificate  
 1302 | of analysis shall be mailed to the registrant of the pesticide  
 1303 | from whom the official sample was taken and also to the dealer  
 1304 | or agent, if any, and consumer, if known. If the official  
 1305 | analysis conforms with the provisions of this part ~~chapter~~, the  
 1306 | official check sample may be destroyed. If the official analysis  
 1307 | does not conform with the provisions of this part ~~chapter~~, the  
 1308 | rules adopted under this part ~~chapter~~, and the provisions of the  
 1309 | pesticide label or labeling, the official check sample shall be  
 1310 | retained for a period of 90 days from the date of the  
 1311 | certificate of analysis of the official sample. If within that  
 1312 | time the registrant of the pesticide from whom the official  
 1313 | sample was taken makes demand for analysis by a referee chemist,  
 1314 | a portion of the official check sample sufficient for analysis  
 1315 | shall be sent to a referee chemist who is mutually acceptable to  
 1316 | the department and the registrant for analysis at the expense of  
 1317 | the registrant. Upon completion of the analysis, the referee  
 1318 | chemist shall forward to the department and to the registrant a  
 1319 | certificate of analysis bearing a proper identification mark or  
 1320 | number; and such certificate of analysis shall be verified by an  
 1321 | affidavit of the person or laboratory making the analysis. If  
 1322 | the certificate of analysis checks within 3 percent of the  
 1323 | department's analysis on each active ingredient for which  
 1324 | analysis was made, the mean average of the two analyses shall be  
 1325 | accepted as final and binding on all concerned. However, if the



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1326 referee's certificate of analysis shows a variation of greater  
 1327 than 3 percent from the department's analysis in any one or more  
 1328 of the active ingredients for which an analysis was made, upon  
 1329 demand of either the department or the registrant from whom the  
 1330 official sample was taken, a portion of the official check  
 1331 sample sufficient for analysis shall be submitted to a second  
 1332 referee chemist who is mutually acceptable to the department and  
 1333 the registrant, at the expense of the party or parties  
 1334 requesting the referee analysis. Upon completion of the  
 1335 analysis, the second referee chemist shall make a certificate  
 1336 and report as provided in this subsection for the first referee  
 1337 chemist. The mean average of the two analyses nearest in  
 1338 conformity shall be accepted as final and binding on all  
 1339 concerned. If no demand is made for an analysis by a second  
 1340 referee chemist, the department's certificate of analysis shall  
 1341 be accepted as final and binding on all concerned.

1342 (4) If a pesticide or device fails to comply with the  
 1343 provisions of this part ~~chapter~~ with reference to the ingredient  
 1344 statement reflecting the composition of the product, as required  
 1345 on the registration and labeling, and the department  
 1346 contemplates possible criminal proceedings against the person  
 1347 responsible because of this violation, the department shall,  
 1348 after due notice, accord the person an informal hearing or an  
 1349 opportunity to present evidence and opinions, either orally or  
 1350 in writing, with regard to such contemplated proceedings. If in  
 1351 the opinion of the department the facts warrant, the department  
 1352 may refer the facts to the state attorney for the county in  
 1353 which the violation occurred, with a copy of the results of the

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1354 analysis or the examination of such article; provided that  
 1355 nothing in this part ~~chapter~~ shall be construed as requiring the  
 1356 department to report for prosecution minor violations whenever  
 1357 it believes that the public interest will be subserved by a  
 1358 suitable notice of warning in writing.

1359 (5) It shall be the duty of each state attorney to whom  
 1360 any such violation is reported to cause appropriate proceedings  
 1361 to be instituted and prosecuted in a court of competent  
 1362 jurisdiction without delay.

1363 (6) The department shall, by publication in such manner as  
 1364 it may prescribe, give notice of all judgments entered in  
 1365 actions instituted under the authority of this part ~~chapter~~.

1366 (7)(a) The department may analyze pesticide samples upon  
 1367 request in a manner consistent with this part ~~chapter~~.

1368 (b) The department shall establish by rule a fee schedule  
 1369 for pesticide samples analyzed upon request. The fees shall be  
 1370 sufficient to cover the costs to the department for taking the  
 1371 samples and performing the analysis. However, no fee shall  
 1372 exceed \$400 per test.

1373 (c) The department shall keep separate records with  
 1374 respect to requested pesticide analyses, including the pesticide  
 1375 analyzed, tests performed, fees collected, the name and address  
 1376 of the person who requested the analysis, and the name and  
 1377 address of the registrant.

1378 (d) All fees collected pursuant to this subsection shall  
 1379 be deposited into the General Inspection Trust Fund and shall be  
 1380 used by the department to implement this subsection.

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1381 (e) In addition to any other penalty provided by this part  
 1382 ~~chapter~~, the registrant of any pesticide found to be  
 1383 adulterated, misbranded, or otherwise deficient shall reimburse  
 1384 the person requesting the pesticide analysis under this  
 1385 subsection for all fees assessed by and paid to the department.

1386 Section 36. Subsections (2), (3), and (4) of section  
 1387 487.081, Florida Statutes, are amended to read:

1388 487.081 Exemptions.--

1389 (2) No article shall be deemed in violation of this part  
 1390 ~~chapter~~ when intended solely for export to a foreign country and  
 1391 when prepared or packed according to the specifications or  
 1392 directions of the purchaser.

1393 (3) Notwithstanding any other provision of this part  
 1394 ~~chapter~~, registration required under this part ~~chapter~~ is not  
 1395 required in the case of a pesticide stored or shipped from one  
 1396 manufacturing plant within this state to another manufacturing  
 1397 plant within this state operated by the same person.

1398 (4) Nothing in this part ~~chapter~~ shall be construed to  
 1399 apply to persons duly licensed or certified under chapter 388 or  
 1400 chapter 482 performing any pest control or other operation for  
 1401 which they are licensed or certified under those chapters.

1402 Section 37. Subsection (2) of section 487.091, Florida  
 1403 Statutes, is amended to read:

1404 487.091 Tolerances, deficiencies, and penalties.--

1405 (2) If a pesticide is found by analysis to be deficient in  
 1406 an active ingredient beyond the tolerance as provided in this  
 1407 part ~~chapter~~, the registrant is subject to a penalty for the  
 1408 deficiency, not to exceed \$10,000 per violation. However, no

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1409 penalty shall be assessed when the official sample was taken  
 1410 from a pesticide that was in the possession of a consumer for  
 1411 more than 45 days from the date of purchase by that consumer, or  
 1412 when the product label specifies that the product should be used  
 1413 by an expiration date that has passed. Procedures for assessing  
 1414 penalties shall be established by rule, based on the degree of  
 1415 the deficiency. Penalties assessed shall be paid to the consumer  
 1416 or, in the absence of a known consumer, the department. If the  
 1417 penalty is not paid within the prescribed period of time as  
 1418 established by rule, the department may deny, suspend, or revoke  
 1419 the registration of any pesticide.

1420 Section 38. Section 487.101, Florida Statutes, is amended  
 1421 to read:

1422 487.101 Stop-sale, stop-use, removal, or hold orders.--

1423 (1) When a pesticide or device is being offered or exposed  
 1424 for sale, used, or held in violation of any of the provisions of  
 1425 this part ~~chapter~~, the department may issue and enforce a stop-  
 1426 sale, stop-use, removal, or hold order, in writing, to the owner  
 1427 or custodian of the pesticide or device, ordering that the  
 1428 pesticide or device be held at a designated place until the part  
 1429 ~~chapter~~ has been complied with and the pesticide or device is  
 1430 released, in writing, by the department or the violation has  
 1431 been disposed of by court order.

1432 (2) The written notice is warning to all persons,  
 1433 including, but not limited to, the owner or custodian of the  
 1434 pesticide or the owner's or custodian's agents or employees, to  
 1435 scrupulously refrain from moving, bothering, altering, or  
 1436 interfering with the pesticide or device or from altering,

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1437 defacing, or in any way interfering with the written notice or  
 1438 permitting the same to be done. The willful violation of these  
 1439 provisions is a misdemeanor, subjecting the violator to the  
 1440 penalty provisions of this part ~~chapter~~.

1441 (3) The department shall release the pesticide or device  
 1442 under a stop-sale, stop-use, removal, or hold order when the  
 1443 owner or custodian complies with the provisions of this part  
 1444 ~~chapter~~.

1445 (4) The owner or custodian, with authorization and  
 1446 supervision of the department, may relabel the pesticide or  
 1447 device so that the label will conform to the product, or  
 1448 transfer and return the product to the manufacturer or supplier  
 1449 for the purpose of bringing the product in compliance with the  
 1450 provisions of this part ~~chapter~~.

1451 Section 39. Subsection (1) of section 487.111, Florida  
 1452 Statutes, is amended to read:

1453 487.111 Seizure, condemnation, and sale.--

1454 (1) Any lot of pesticide or device not in compliance with  
 1455 the provisions of this part ~~chapter~~ is subject to seizure on  
 1456 complaint of the department to the circuit court in the county  
 1457 in which the pesticide or device is located. In the event the  
 1458 court finds the pesticide or device in violation of this part  
 1459 ~~chapter~~ and orders it condemned, it shall be disposed of as the  
 1460 court may direct; provided that in no instance shall the  
 1461 disposition of the pesticide or device be ordered by the court  
 1462 without first giving the owner or custodian an opportunity to  
 1463 apply to the court for release of the pesticide or device or for

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1464 permission to process or relabel it to bring it into compliance  
1465 with this part ~~chapter~~.

1466 Section 40. Section 487.13, Florida Statutes, is amended  
1467 to read:

1468 487.13 Cooperation.--The department is authorized and  
1469 empowered to cooperate with and enter into agreements with any  
1470 other agency of this state, the United States Department of  
1471 Agriculture, the United States Environmental Protection Agency,  
1472 and any other state or federal agency for the purpose of  
1473 carrying out the provisions of this part ~~chapter~~ and securing  
1474 uniformity of regulations.

1475 Section 41. Section 487.156, Florida Statutes, is amended  
1476 to read:

1477 487.156 Governmental agencies.--All governmental agencies  
1478 shall be subject to the provisions of this part ~~chapter~~ and  
1479 rules adopted under this part ~~chapter~~. Public applicators using  
1480 or supervising the use of restricted-use pesticides shall be  
1481 subject to examination as provided in s. 487.044.

1482 Section 42. Subsection (1) of section 487.159, Florida  
1483 Statutes, is amended to read:

1484 487.159 Damage or injury to property, animal, or person;  
1485 mandatory report of damage or injury; time for filing; failure  
1486 to file.--

1487 (1) The person claiming damage or injury to property,  
1488 animal, or human beings from application of a pesticide shall  
1489 file with the department a written statement claiming damages,  
1490 on a form prescribed by the department, within 48 hours after  
1491 the damage or injury becomes apparent. The statement shall

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1492 contain, but shall not be limited to, the name of the person  
 1493 responsible for the application of the pesticide, the name of  
 1494 the owner or lessee of the land on which the crop is grown and  
 1495 for which the damages are claimed, and the date on which it is  
 1496 alleged that the damages occurred. The department shall  
 1497 investigate the alleged damages and notify all concerned parties  
 1498 of its findings. If the findings reveal a violation of the  
 1499 provisions of this part ~~chapter~~, the department shall determine  
 1500 an appropriate penalty, as provided in this part ~~chapter~~. The  
 1501 filing of a statement or the failure to file such a statement  
 1502 need not be alleged in any complaint which might be filed in a  
 1503 court of law, and the failure to file the statement shall not be  
 1504 considered any bar to the maintenance of any criminal or civil  
 1505 action.

1506 Section 43. Section 487.161, Florida Statutes, is amended  
 1507 to read:

1508 487.161 Exemptions, nonagricultural pest control and  
 1509 research.--

1510 (1) Any person duly licensed or certified under chapter  
 1511 482, or under the supervision of chapter 388, is exempted from  
 1512 the licensing provisions of this part ~~chapter~~.

1513 (2) The use of the antibiotic oxytetracycline  
 1514 hydrochloride for the purpose of controlling lethal yellowing is  
 1515 exempted from the licensing provisions of this part ~~chapter~~.

1516 (3) The personnel of governmental, university, or  
 1517 industrial research agencies are exempted from the provisions of  
 1518 this part ~~chapter~~ when doing applied research within a  
 1519 laboratory, but shall comply with all the provisions of this

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1520 part ~~chapter~~ when applying restricted-use pesticides to  
 1521 experimental or demonstration plots.

1522 Section 44. Section 487.163, Florida Statutes, is amended  
 1523 to read:

1524 487.163 Information; interagency cooperation.--

1525 (1) The department may, in cooperation with the University  
 1526 of Florida or other agencies of government, publish information  
 1527 and conduct short courses of instruction in the safe use and  
 1528 application of pesticides for the purpose of carrying out the  
 1529 provisions of this part ~~chapter~~.

1530 (2) The department may cooperate or enter into formal  
 1531 agreements with any other agency or educational institution of  
 1532 this state or its subdivisions or with any agency of any other  
 1533 state or of the Federal Government for the purpose of carrying  
 1534 out the provisions of this part ~~chapter~~ and of securing  
 1535 uniformity of regulations.

1536 Section 45. Subsections (1), (2), and (3) of section  
 1537 487.171, Florida Statutes, are amended to read:

1538 487.171 Classification of antifouling paint containing  
 1539 organotin compounds as restricted-use pesticides; prohibition of  
 1540 distribution and sale.--

1541 (1) The department shall classify antifouling paints  
 1542 containing organotin compounds having an acceptable release rate  
 1543 as restricted-use pesticides subject to the requirements of this  
 1544 part ~~chapter~~. Antifouling paints containing organotin having  
 1545 acceptable release rates and sold in spray cans of 16 ounces  
 1546 avoirdupois weight or less for outboard motor or lower unit use



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1547 are exempt from the restricted-use pesticide classification  
1548 requirement.

1549 (2) The department shall initiate action under chapter  
1550 120, to deny or cancel the registration of antifouling paints  
1551 containing organotin compounds which do not have an acceptable  
1552 release rate or do not meet other criteria established by the  
1553 department in accordance with this part ~~chapter~~.

1554 (3) Distribution, sale, and use of antifouling paints  
1555 containing organotin compounds with acceptable release rates  
1556 shall be limited to dealers and applicators licensed by the  
1557 department in accordance with this part ~~chapter~~, to distribute,  
1558 sell, or use restricted-use pesticides. Such paint may be  
1559 applied only by licensed applicators and may be applied only to  
1560 vessels which exceed 25 meters in length or which have aluminum  
1561 hulls.

1562 Section 46. Section 487.175, Florida Statutes, is amended  
1563 to read:

1564 487.175 Penalties; administrative fine; injunction.--

1565 (1) In addition to any other penalty provided in this part  
1566 ~~chapter~~, when the department finds any person, applicant, or  
1567 licensee has violated any provision of this part ~~chapter~~ or rule  
1568 adopted under this part ~~chapter~~, it may enter an order imposing  
1569 any one or more of the following penalties:

1570 (a) Denial of an application for licensure.

1571 (b) Revocation or suspension of a license.

1572 (c) Issuance of a warning letter.

1573 (d) Placement of the licensee on probation for a specified  
1574 period of time and subject to conditions the department may

1575 specify by rule, including requiring the licensee to attend  
 1576 continuing education courses, to demonstrate competency through  
 1577 a written or practical examination, or to work under the direct  
 1578 supervision of another licensee.

1579 (e) Imposition of an administrative fine not to exceed  
 1580 \$10,000 for each violation. When imposing any fine under this  
 1581 paragraph, the department shall consider the degree and extent  
 1582 of harm caused by the violation, the cost of rectifying the  
 1583 damage, the amount of money the violator benefited from by  
 1584 noncompliance, whether the violation was committed willfully,  
 1585 and the compliance record of the violator.

1586 (2) Any person who violates any provision of this part  
 1587 ~~chapter~~ or rules adopted pursuant thereto commits a misdemeanor  
 1588 of the second degree and upon conviction is punishable as  
 1589 provided in s. ss- 775.082 or s. and 775.083. For a subsequent  
 1590 violation, such person commits a misdemeanor of the first degree  
 1591 and upon conviction is punishable as provided in s. ss- 775.082  
 1592 or s. and 775.083.

1593 (3) In addition to the remedies provided in this part  
 1594 ~~chapter~~ and notwithstanding the existence of any adequate remedy  
 1595 at law, the department may bring an action to enjoin the  
 1596 violation or threatened violation of any provision of this part  
 1597 ~~chapter~~, or rule adopted under this part ~~chapter~~, in the circuit  
 1598 court of the county in which the violation occurred or is about  
 1599 to occur. Upon the department's presentation of competent and  
 1600 substantial evidence to the court of the violation or threatened  
 1601 violation, the court shall immediately issue the temporary or  
 1602 permanent injunction sought by the department. The injunction

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1603 shall be issued without bond. A single act in violation of any  
 1604 provision of this part ~~chapter~~ shall be sufficient to authorize  
 1605 the issuance of an injunction.

1606 Section 47. Subsection (1) of section 482.242, Florida  
 1607 Statutes, is amended to read:

1608 482.242 Preemption.--

1609 (1) This chapter is intended as comprehensive and  
 1610 exclusive regulation of pest control in this state. The  
 1611 provisions of this chapter preempt to the state all regulation  
 1612 of the activities and operations of pest control services,  
 1613 including the pesticides used pursuant to labeling and  
 1614 registration approved under part I of chapter 487. No local  
 1615 government or political subdivision of the state may enact or  
 1616 enforce an ordinance that regulates pest control, except that  
 1617 the preemption in this section does not prohibit a local  
 1618 government or political subdivision from enacting an ordinance  
 1619 regarding any of the following:

1620 (a) Local occupational licenses adopted pursuant to  
 1621 chapter 205.

1622 (b) Land development regulations adopted pursuant to  
 1623 chapter 163 which include regulation of any aspect of  
 1624 development, including a subdivision, building construction,  
 1625 sign regulation or any other regulation concerning the  
 1626 development of land, or landscaping or tree protection  
 1627 ordinances which do not include pesticide application  
 1628 restrictions.

1629 (c) Regulations that:

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1630           1. Require, for multicomplex dwellings in excess of 10  
1631 units, annual termite inspections for termite activity or  
1632 damage, including Formosan termites, which must be performed by  
1633 a person licensed under this chapter.

1634           2. Require pest control treatments of structures that have  
1635 termite activity or damage which must be performed by a person  
1636 licensed under this chapter.

1637           3. Require property owners or other persons to obtain  
1638 inspections or pest control treatments performed by a person  
1639 licensed under this chapter.

1640

1641 An ordinance by a local government or political subdivision  
1642 which requires an annual inspection or pest control treatment  
1643 must conform to current law.

1644           (d) Protection of wellhead protection areas and high  
1645 recharge areas.

1646           (e) Hazardous materials reporting as set forth in part II  
1647 of chapter 252, storage, and containment including as relating  
1648 to stormwater management.

1649           (f) Hazardous material unlawful discharge and disposal.

1650           (g) Hazardous materials remediation.

1651           Section 48. Section 487.2011, Florida Statutes, is created  
1652 to read:

1653           487.2011 Popular name; administration.--This part may be  
1654 known by the popular name the "Florida Agricultural Worker  
1655 Safety Act" and shall be administered by the Department of  
1656 Agriculture and Consumer Services.

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1657 Section 49. Section 487.2021, Florida Statutes, is created  
1658 to read:

1659 487.2021 Legislative intent.--It is the intent of the  
1660 Legislature to ensure that agricultural workers employed in the  
1661 state receive protection from agricultural pesticides. The  
1662 Legislature intends to ensure that agricultural workers be given  
1663 information concerning agricultural pesticides.

1664 Section 50. Section 487.2031, Florida Statutes, is created  
1665 to read:

1666 487.2031 Definitions.--For the purposes of this part, the  
1667 term:

1668 (1) "Agricultural employer" means any person who hires or  
1669 contracts for the services of workers to perform activities  
1670 related to the production of agricultural plants or any person  
1671 who is an owner of an agricultural establishment that uses such  
1672 workers.

1673 (2) "Agricultural establishment" means any farm, forest,  
1674 nursery, or greenhouse.

1675 (3) "Agricultural plant" means any plant grown or  
1676 maintained for commercial or research purposes and includes, but  
1677 is not limited to, food, feed, fiber plants, trees, turfgrass,  
1678 flowers, shrubs, ornamentals, and seedlings.

1679 (4) "Department" means the Department of Agriculture and  
1680 Consumer Services or its authorized representative.

1681 (5) "Designated representative" means any immediate family  
1682 member, health service provider, coworker, or language  
1683 interpreter to whom a worker gives written authorization to

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1684 exercise the right to request the agricultural pesticide  
 1685 information pursuant to this part.

1686 (6) "Fact sheet" means any state or federally approved  
 1687 fact sheet.

1688 (7) "Material safety data sheet" means written or printed  
 1689 material concerning an agricultural pesticide which sets forth  
 1690 the following information:

1691 (a) The chemical name and the common name of the  
 1692 agricultural pesticide.

1693 (b) The hazards or other risks in the use of the  
 1694 agricultural pesticide, including:

1695 1. The potential for fire, explosions, corrosivity, and  
 1696 reactivity.

1697 2. The known acute health effects and chronic health  
 1698 effects of exposure to the agricultural pesticide, including  
 1699 those medical conditions that are generally recognized as being  
 1700 aggravated by exposure to the agricultural pesticide.

1701 3. The primary routes of entry and symptoms of  
 1702 overexposure.

1703 (c) The proper precautions, handling practices, necessary  
 1704 personal protective equipment, and other safety precautions in  
 1705 the use of or exposure to the agricultural pesticide, including  
 1706 appropriate emergency treatment in case of overexposure.

1707 (d) The emergency procedures for spills, fire, disposal,  
 1708 and first aid.

1709 (e) A description of the known specific potential health  
 1710 risks posed by the agricultural pesticide, which description is

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1711 written in lay terms and is intended to alert any person who  
 1712 reads the information.

1713 (f) The year and the month, if available, that the  
 1714 information was compiled and the name, address, and emergency  
 1715 telephone number of the manufacturer responsible for preparing  
 1716 the information.

1717 (8) "Retaliation" means actions, such as dismissal,  
 1718 demotion, harassment, blacklisting with other employers,  
 1719 reducing pay or work hours, or taking away company housing, by  
 1720 any agricultural employer against any worker who exercises any  
 1721 right under the United States Environmental Protection Agency  
 1722 Worker Protection Standard, 40 C.F.R s. 1707(b), or this part.

1723 (9) "Trainer" means any person who is qualified to train  
 1724 workers under the pesticide safety training requirements of the  
 1725 United States Environmental Protection Agency Worker Protection  
 1726 Standard, 40 C.F.R. s. 170.130.

1727 (10) "Worker" means any person, including a farmworker or  
 1728 a self-employed person, who is employed for any type of  
 1729 compensation and who is performing activities relating to the  
 1730 production of agricultural plants on an agricultural  
 1731 establishment. The term "worker" does not include any person  
 1732 employed by a commercial pesticide-handling establishment to  
 1733 perform tasks as a crop advisor.

1734 Section 51. Section 487.2041, Florida Statutes, is created  
 1735 to read:

1736 487.2041 Enforcement of federal worker protection  
 1737 regulations.--The department shall, to the extent that resources  
 1738 are available, continue to operate under the regulations

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1739 established by the United States Environmental Protection Agency  
 1740 Labeling Requirement for Pesticides and Devices, 40 C.F.R. part  
 1741 156, and the Worker Protection Standard, 40 C.F.R. part 170,  
 1742 which the department adopted by rule during the 1995-1996 fiscal  
 1743 year and published in the Florida Administrative Code. Any  
 1744 provision of this part not preempted by federal law shall  
 1745 continue to apply.

1746 Section 52. Section 487.2051, Florida Statutes, is created  
 1747 to read:

1748 487.2051 Availability of agricultural pesticide  
 1749 information to workers and medical personnel.--

1750 (1)(a) The agricultural employer shall make available  
 1751 agricultural pesticide information concerning any agricultural  
 1752 pesticide to any worker who enters an agricultural pesticide-  
 1753 treated area on an agricultural establishment where, within the  
 1754 last 30 days, an agricultural pesticide has been applied or a  
 1755 restricted-entry interval has been in effect or to any worker  
 1756 who may be exposed to the agricultural pesticide during normal  
 1757 conditions of use or in a foreseeable emergency.

1758 (b) The agricultural pesticide information shall be in the  
 1759 form of a material safety data sheet or a state or federally  
 1760 approved fact sheet. The agricultural employer shall provide a  
 1761 written copy of the information specified in this section within  
 1762 2 working days after a request for the information by a worker  
 1763 or a designated representative of the worker. In case of a  
 1764 pesticide-related medical emergency, the information shall be  
 1765 provided promptly upon request to the worker or medical  
 1766 personnel treating the worker.



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1767        (c) Upon the initial purchase of a product and with the  
 1768 first purchase after the material safety data sheet is updated,  
 1769 the distributor, manufacturer, or importer of agricultural  
 1770 pesticides shall obtain or develop and provide each direct  
 1771 purchaser of agricultural pesticides with a material safety data  
 1772 sheet. If the material safety data sheet or fact sheet for the  
 1773 agricultural pesticide is not available at the time the  
 1774 agricultural pesticide is purchased, the agricultural employer  
 1775 shall take appropriate and timely steps to obtain the material  
 1776 safety data sheet or fact sheet from the distributor, the  
 1777 manufacturer, the department, a federal agency, or another  
 1778 distribution source.

1779        (2) The department shall make available to a trainer a  
 1780 one-page general agricultural pesticide safety sheet designed by  
 1781 the department. The safety sheet must be in a language  
 1782 understandable to the worker and must include, but is not  
 1783 limited to, illustrated instructions on prevention of  
 1784 agricultural pesticide exposure and toll-free numbers to the  
 1785 Florida Poison Control Centers. The trainer shall provide the  
 1786 safety sheet to the worker pursuant to the United States  
 1787 Environmental Protection Agency Worker Protection Standard, 40  
 1788 C.F.R. s. 170.130.

1789        Section 53. Section 487.2061, Florida Statutes, is created  
 1790 to read:

1791        487.2061 Prohibited acts.--It is unlawful for any person  
 1792 to:

1793        (1) Fail to provide agricultural pesticide information as  
 1794 provided for in this part.

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1795           (2) Take any retaliatory action against any worker for  
 1796 exercising any right under the provisions of the United States  
 1797 Environmental Protection Agency Worker Protection Standard, 40  
 1798 C.F.R. s. 1707(b), or this part.

1799           Section 54. Section 487.2071, Florida Statutes, is created  
 1800 to read:

1801           487.2071 Penalties against violators; worker relief;  
 1802 monitoring complaints of retaliation.--

1803           (1) Penalties set forth in part I of this chapter shall be  
 1804 applied to any person who violates any provision in this part.  
 1805 Persons violating provisions of this part shall also be subject  
 1806 to the federal penalties in the United States Environmental  
 1807 Protection Agency Worker Protection Standard, 40 C.F.R, s.  
 1808 1707(b).

1809           (2)(a) Any worker who has been retaliated against by any  
 1810 person for exercising any right under the United States  
 1811 Environmental Protection Agency Worker Protection Standard, 40  
 1812 C.F.R. s. 1707(b), or this part, and seeks relief shall file a  
 1813 complaint with the department of such retaliation.

1814           (b) In any action brought pursuant to this section where  
 1815 the retaliatory personnel action is predicated upon the  
 1816 disclosure of an illegal activity, policy, or practice to an  
 1817 appropriate governmental agency, the worker shall not be  
 1818 required to show that the disclosure to the governmental agency  
 1819 was under oath or in writing or that the notification to the  
 1820 employer concerning the illegal activity, policy, or practice  
 1821 was in writing.

1822           (3) The department shall monitor all complaints of  
 1823 retaliation that it receives and report its findings to the  
 1824 President of the Senate and the Speaker of the House of  
 1825 Representatives on or before October 1, 2008. The report shall  
 1826 include the number of such complaints received, the  
 1827 circumstances surrounding the complaints, and the actions taken  
 1828 concerning the complaints.

1829           Section 55. Paragraph (x) of subsection (1) of section  
 1830 500.03, Florida Statutes, is amended to read:

1831           500.03 Definitions; construction; applicability.--

1832           (1) For the purpose of this chapter, the term:

1833           (x) "Pesticide chemical" means any substance which, alone,  
 1834 in chemical combination, or in formulation with one or more  
 1835 other substances is a "pesticide" within the meaning of the  
 1836 Florida Pesticide Law, part I of chapter 487, and which is used  
 1837 in the production, storage, or transportation of raw  
 1838 agricultural commodities.

1839           Section 56. Subsections (1) and (6) of section 570.44,  
 1840 Florida Statutes, are amended to read:

1841           570.44 Division of Agricultural Environmental Services;  
 1842 powers and duties.--The duties of the Division of Agricultural  
 1843 Environmental Services include, but are not limited to:

1844           (1) Inspecting and drawing samples of: commercial feeds  
 1845 offered for sale in this state and enforcing those provisions of  
 1846 chapter 580 authorized by the department; seeds offered for sale  
 1847 in this state and enforcing those provisions of chapter 578  
 1848 authorized by the department; certified seed grown in this  
 1849 state; fertilizers offered for sale in this state and enforcing

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1850 those provisions of chapter 576 authorized by the department;  
 1851 and pesticides offered for sale in this state, and soil and  
 1852 water in this state for the presence of pesticides, and  
 1853 enforcing those provisions of part I of chapter 487 authorized  
 1854 by the department.

1855 (6) Analyzing samples of pesticide formulations offered  
 1856 for sale in this state and tank mix, soil, water, and other  
 1857 environmental samples related to pesticide use investigations,  
 1858 as required under part I of chapter 487.

1859 Section 57. In editing manuscript for the next edition of  
 1860 the official Florida Statutes, the Division of Statutory  
 1861 Revision shall designate ss. 487.011-487.175, Florida Statutes,  
 1862 as part I of chapter 487, the "Florida Pesticide Law," and ss.  
 1863 487.2011-487.2071, Florida Statutes, as created by this act, as  
 1864 part II of chapter 487, the "Florida Agricultural Worker Safety  
 1865 Act."

1866 Section 58. This act shall take effect July 1, 2004.