

1 A bill to be entitled

2 An act relating to agricultural and migrant labor;
3 providing a popular name; amending s. 381.008, F.S.;
4 revising a definition; amending s. 381.0086, F.S.;
5 requiring the Department of Health to adopt rules relating
6 to residential migrant housing; providing guidelines for
7 the filing of interstate clearance orders; amending s.
8 381.0087, F.S.; revising a provision relating to who may
9 issue certain citations; requiring the department to
10 provide notice of suspected violations; amending s.
11 403.088, F.S.; clarifying a provision relating to water
12 pollution operation permits; amending s. 450.191, F.S.;
13 authorizing and directing the Executive Office of the
14 Governor to advise and consult on certain issues relating
15 to migrant and seasonal workers; directing the office to
16 coordinate enforcement of certain provisions with the
17 Department of Business and Professional Regulation;
18 including farm labor contractors in the enforcement of
19 certain laws; authorizing and directing the office to
20 cooperate with the Agency for Workforce Innovation in the
21 recruitment and referral of migrant workers and certain
22 other laborers; amending s. 450.201, F.S.; renaming the
23 Legislative Commission on Migrant Labor as the Legislative
24 Commission on Migrant and Seasonal Labor; providing a
25 deadline for appointments to the commission; providing a
26 deadline for the commission's first meeting; amending s.
27 450.231, F.S.; providing a deadline for certain reports;
28 amending s. 450.27, F.S.; providing a popular name;

29 | amending s. 450.271, F.S.; authorizing the department to
30 | enter into certain agreements with the Secretary of Labor
31 | of the United States; amending s. 450.28, F.S.; providing
32 | definitions; amending s. 450.30, F.S.; revising
33 | requirements for retaking examinations for renewal of
34 | certificates of registration; requiring fees for certain
35 | programs to be deposited in the Professional Regulation
36 | Trust Fund; amending s. 450.31, F.S.; providing criteria
37 | for issuance or renewal of certificates of registration;
38 | authorizing payment for certificates of registration by
39 | cashier's check; increasing the application fee for such
40 | registration; requiring fees to be deposited in the
41 | Professional Regulation Trust Fund; providing criteria for
42 | revocation, suspension, or refusal to issue or renew
43 | certificates of registration; conforming a provision;
44 | providing criteria for permanent revocation or refusal to
45 | issue or renew certificates of registration; authorizing
46 | the department to inspect certain documents upon receipt
47 | and acceptance of a certificate of registration; creating
48 | s. 450.321, F.S.; creating the best practices incentive
49 | program for farm labor contractors; requiring farm labor
50 | contractors to meet certain requirements; restricting the
51 | transfer or unauthorized use of best practices
52 | designations; authorizing the department to enter into
53 | certain partnership agreements; authorizing the department
54 | to revoke certain designations; providing that certain
55 | designations are not department endorsements; limiting
56 | certain civil liability of the department; requiring the

57 | department to establish an incentive program; amending s.
 58 | 450.33, F.S.; removing department requirements for the
 59 | suspension or revocation of farm labor contractors'
 60 | certificates of registration; requiring farm labor
 61 | contractors to keep certain records; amending s. 450.34,
 62 | F.S.; providing certain prohibited acts for farm labor
 63 | contractors; amending s. 450.35, F.S.; prohibiting certain
 64 | contracts or employment; providing penalties; amending s.
 65 | 450.37, F.S.; authorizing the department to enter into
 66 | agreements with other state agencies for certain purposes;
 67 | amending s. 450.38, F.S.; providing civil and criminal
 68 | penalties for minor and major violations; increasing
 69 | certain civil penalties; authorizing payment of certain
 70 | civil penalties by cashier's check; removing authorization
 71 | to pay certain civil penalties by cash; increasing the
 72 | scope of where a complaint may be filed; providing for a
 73 | warning to contractors committing minor violations;
 74 | providing civil penalties for contractors committing major
 75 | violations; creating s. 450.39, F.S.; providing guidelines
 76 | for the sale of certain commodities to farmworkers;
 77 | providing a definition; amending s. 487.011, F.S.;
 78 | providing a popular name; amending ss. 487.012, 487.021,
 79 | 487.025, 487.031, 487.041, 487.0435, 487.045, 487.046,
 80 | 487.047, 487.049, 487.051, 487.0615, 487.071, 487.081,
 81 | 487.091, 487.101, 487.111, 487.13, 487.156, 487.159,
 82 | 487.161, 487.163, 487.171, and 487.175, F.S.; revising
 83 | references to make the "Florida Pesticide Law" part I of
 84 | ch. 487, F.S.; amending s. 482.242, F.S.; clarifying a

85 provision relating to the labeling and registration of
86 approved pesticides; creating s. 487.2011, F.S., the
87 "Florida Agricultural Worker Safety Act"; providing for
88 administration by the Department of Agriculture and
89 Consumer Services; creating s. 487.2021, F.S.; providing
90 legislative intent; creating s. 487.2031, F.S.; providing
91 definitions; creating s. 487.2041, F.S.; providing
92 enforcement of federal worker protection regulations;
93 creating s. 487.2051, F.S.; requiring agricultural
94 employers to make certain pesticide information available;
95 creating s. 487.2061, F.S.; prohibiting certain acts;
96 creating s. 487.2071, F.S.; providing penalties; requiring
97 monitoring and reporting of complaints; amending ss.
98 500.03 and 570.44, F.S.; clarifying provisions relating to
99 the definition of the term "pesticide chemical" and duties
100 of the Division of Agricultural Environmental Services,
101 respectively; amending s. 440.16, F.S.; deleting a
102 provision relating to compensation paid to dependents of
103 aliens; directing the Division of Statutory Revision to
104 designate parts I and II of ch. 487, F.S.; providing an
105 appropriation; providing an effective date.

106
107 Be It Enacted by the Legislature of the State of Florida:

108
109 Section 1. This act may be known by the popular name the
110 "Alfredo Bahena Act."

111 Section 2. Subsection (8) of section 381.008, Florida
112 Statutes, is amended to read:

113 381.008 Definitions of terms used in ss. 381.008-
 114 381.00897.--As used in ss. 381.008-381.00897, the following
 115 words and phrases mean:

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

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

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

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

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

132 Section 3. Subsections (1) and (2) of section 381.0086,
 133 Florida Statutes, are amended, and subsection (6) is added to
 134 said section, to read:

135 381.0086 Rules; variances; penalties.--

136 (1) The department shall adopt rules necessary to protect
 137 the health and safety of migrant farmworkers ~~farm workers~~ and
 138 other migrant labor camp or residential migrant housing
 139 occupants, including rules governing field sanitation
 140 facilities. These rules must include definitions of terms,

141 provisions relating to plan review of the construction of new,
 142 expanded, or remodeled camps or residential migrant housing,
 143 sites, buildings and structures, personal hygiene facilities,
 144 lighting, sewage disposal, safety, minimum living space per
 145 occupant, bedding, food equipment, food storage and preparation,
 146 insect and rodent control, garbage, heating equipment, water
 147 supply, maintenance and operation of the camp, housing, or
 148 roads, and such other matters as the department finds to be
 149 appropriate or necessary to protect the life and health of the
 150 occupants. Housing operated by a public housing authority is
 151 exempt from the provisions of any administrative rule that
 152 conflicts with or is more stringent than the federal standards
 153 applicable to the housing.

154 (2) Except when prohibited as specified in subsection (6),
 155 an owner or operator may apply for a permanent structural
 156 variance from the department's rules by filing a written
 157 application and paying a fee set by the department, not to
 158 exceed \$100. This application must:

159 (a) Clearly specify the standard from which the variance
 160 is desired. ~~;~~

161 (b) Provide adequate justification that the variance is
 162 necessary to obtain a beneficial use of an existing facility and
 163 to prevent a practical difficulty or unnecessary hardship. ~~;~~ ~~and~~

164 (c) Clearly set forth the specific alternative measures
 165 that the owner or operator has taken to protect the health and
 166 safety of occupants and adequately show that the alternative
 167 measures have achieved the same result as the standard from
 168 which the variance is sought.

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

173 Section 4. Subsections (1) and (6) of section 381.0087,
 174 Florida Statutes, are amended, and subsection (9) is added to
 175 said section, to read:

176 381.0087 Enforcement; citations.--

177 (1) ~~Department personnel or crew chief compliance officers~~
 178 ~~employed by the Bureau of Compliance of the Florida Department~~
 179 ~~of Labor and Employment Security~~ may issue citations that
 180 contain an order of correction or an order to pay a fine, or
 181 both, for violations of ss. 381.008-381.00895 or the field
 182 sanitation facility rules adopted by the department when a
 183 violation of those sections or rules is enforceable by an
 184 administrative or civil remedy, or when a violation of those
 185 sections or rules is a misdemeanor of the second degree. A
 186 citation issued under this section constitutes a notice of
 187 proposed agency action. The recipient of a citation for a major
 188 deficiency, as defined by rule of the department, will be given
 189 a maximum of 48 hours to make satisfactory correction or
 190 demonstrate that provisions for correction are satisfactory.

191 (6) Any person who willfully refuses to sign and accept a
 192 citation issued by the department commits ~~or the Department of~~
 193 ~~Labor and Employment Security is guilty of~~ a misdemeanor of the
 194 second degree, punishable as provided in s. 775.082 or s.
 195 775.083.

196 (9) When the department suspects that a law has been
 197 violated, it shall notify the entity that enforces the law.

198 Section 5. Subsection (1) of section 403.088, Florida
 199 Statutes, is amended to read:

200 403.088 Water pollution operation permits; conditions.--

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

222 Section 6. Subsection (1) of section 450.191, Florida
 223 Statutes, is amended 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 and
 229 seasonal workers and their employers as to the ways and means of
 230 improving living and working conditions of migrant and seasonal
 231 workers.†

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

238 (c) Provide coordination for the enforcement of ss.
 239 381.008-381.0088 and ss. 450.27-450.38.†

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

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

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

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

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

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

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

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

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

274 450.201 Legislative Commission on Migrant and Seasonal
 275 Labor; membership; filling vacancies.--

276 (1) There is created a permanent joint committee of the
 277 Florida Legislature to be known as the Legislative Commission on
 278 Migrant and Seasonal Labor, to be composed of three members of

279 | the Senate, appointed by the President of the Senate, and three
 280 | members of the House of Representatives, appointed by the
 281 | Speaker of the House. One member from each house shall be a
 282 | member of the minority party. Any vacancy in the commission
 283 | shall be filled by the respective presiding officer from the
 284 | membership of the legislative body from which the vacancy
 285 | occurred. However, a member who ceases to be a member of the
 286 | legislative body from which appointed shall continue to be a
 287 | member of the commission until the next succeeding regular
 288 | session of the Legislature, at which the commission shall render
 289 | its report to the Legislature.

290 | (2) Appointments shall be made no later than March 1,
 291 | 2005.

292 | (3) The first meeting of the commission shall be no later
 293 | than July 1, 2005.

294 | Section 8. Section 450.231, Florida Statutes, is amended
 295 | to read:

296 | 450.231 Annual reports to Legislature.--The commission
 297 | shall report its findings, recommendations, and proposed
 298 | legislation to each regular session of the Legislature no later
 299 | than February 1 of each year beginning in 2006.

300 | Section 9. Section 450.27, Florida Statutes, is amended to
 301 | read:

302 | 450.27 Short title.--This part shall be known by the
 303 | popular name ~~may be cited as the~~ "Farm Labor Contractor
 304 | Registration Law."

305 | Section 10. Section 450.271, Florida Statutes, is amended
 306 | to read:

307 450.271 State administration of the Migrant and Seasonal
 308 Agricultural Worker Protection Act.--The Department of Business
 309 and Professional Regulation ~~Labor and Employment Security~~ may
 310 enter into agreements with the Secretary of Labor of the United
 311 States to authorize the department to administer within the
 312 State of Florida the provisions of the Migrant and Seasonal
 313 Agricultural Worker Protection Act of 1983, as amended.

314 Section 11. Subsections (5) and (6) are added to section
 315 450.28, Florida Statutes, to read:

316 450.28 Definitions.--

317 (5) "Minor violation" means a violation of a specific
 318 state or federal law or rule that does not result in economic or
 319 physical harm to any person recruited, transported, supplied, or
 320 hired by a farm labor contractor or create a significant threat
 321 of such harm.

322 (6) "Major violation" means a violation of a specific
 323 state or federal law or rule that results in economic or
 324 physical harm to any person recruited, transported, supplied, or
 325 hired by a farm labor contractor or creates a significant threat
 326 of such harm.

327 Section 12. Subsections (6) and (7) of section 450.30,
 328 Florida Statutes, are amended to read:

329 450.30 Requirement of certificate of registration;
 330 education and examination program.--

331 (6) The department shall require an applicant for renewal
 332 of a certificate of registration to retake the examination only
 333 if:

334 (a) During the prior certification period, the department
 335 issued a final order assessing a civil monetary penalty for a
 336 major violation of this part or revoked or refused to renew or
 337 issue a certificate of registration; or

338 (b) The department determines that new requirements
 339 related to the duties and responsibilities of a farm labor
 340 contractor necessitate a new examination.

341 (7) The department shall charge each applicant a \$35 fee
 342 for the education and examination program. Such fees shall be
 343 deposited in the Professional Regulation Crew Chief Registration
 344 Trust Fund.

345 Section 13. Subsections (1) and (2) of section 450.31,
 346 Florida Statutes, are amended, and subsections (5) and (6) are
 347 added to said section, to read:

348 450.31 Issuance, revocation, and suspension of, and
 349 refusal to issue or renew, certificate of registration.--

350 (1) The department shall not issue to any person a
 351 certificate of registration as a farm labor contractor, nor
 352 shall it renew such certificate, until:

353 (a) Such person has executed a written application
 354 therefor in a form and pursuant to regulations prescribed by the
 355 department and has submitted such information as the department
 356 may prescribe.

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

360 (c) Such person pays to the department, by cashier's check
 361 ~~in cash~~, certified check, or money order, a nonrefundable

362 application fee of \$125 ~~\$75~~. Fees collected by the department
 363 under this subsection shall be deposited in the State Treasury
 364 into the Professional Regulation ~~Crew Chief Registration~~ Trust
 365 Fund, ~~which is hereby created,~~ and shall be used ~~utilized~~ for
 366 administration of this part.

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

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

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

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

379 (b) Made any misrepresentation or false statement in his
 380 or her application for a certificate of registration;~~-~~

381 (c) Given false or misleading information concerning
 382 terms, conditions, or existence of employment to persons who are
 383 recruited or hired to work on a farm;~~-~~

384 (d) Been assessed a civil fine by the department for which
 385 payment is overdue;

386 (e) Failed to pay unemployment compensation taxes as
 387 determined by the Agency for Workforce Innovation;

388 (f) Been denied, or had suspended or revoked, a federal
 389 certificate of registration as a farm labor contractor; or

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

392 (5) The department may permanently revoke or refuse to
 393 issue or renew a certificate of registration if such applicant
 394 or certificate holder has been convicted within the preceding 5
 395 years of:

396 (a) A crime under state or federal law:

397 1. Relating to gambling, or to the sale, distribution, or
 398 possession of alcoholic beverages.

399 2. Committed in connection with, or incident to, any farm
 400 labor contracting activities; or

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

407 (6) Receipt and acceptance of a certificate of
 408 registration as a farm labor contractor constitutes
 409 unconditional permission for and acquiescence by the contractor
 410 to the inspection by department personnel of books, ledgers, and
 411 all other documents that are related to the performance of the
 412 contractor's farm labor activities.

413 Section 14. Section 450.321, Florida Statutes, is created
 414 to read:

415 450.321 Best practices incentive program for farm labor
 416 contractors.--

417 (1) To promote compliance with this part, and to help the
418 public identify farm labor contractors who have demonstrated a
419 firm commitment to responsible and safe labor practices, the
420 department shall develop and implement a best practices
421 incentive program for farm labor contractors.

422 (2) Farm labor contractors who seek designation as a best
423 practices farm labor contractor must meet the requirements set
424 by the department. A farm labor contractor may not transfer or
425 use without authorization a designation as a best practices farm
426 labor contractor.

427 (3) The department may enter into a partnership agreement
428 with a farm labor contractor that states the responsibilities of
429 each party to the agreement regarding the requirements to
430 receive and maintain a best practices designation. Recipients of
431 a designation as a best practices farm labor contractor may use
432 this designation when soliciting business as long as the
433 designation is in effect.

434 (4) A designation as a best practices farm labor
435 contractor may be revoked when the department determines that
436 the recipient has failed to comply with a requirement
437 established pursuant to subsection (2). When a designation is
438 revoked, the prior recipient shall cease all use of the best
439 practices farm labor contractor designation when soliciting
440 business.

441 (5) The grant of a designation as a best practices farm
442 labor contractor is not an endorsement of the recipient by the
443 department and may not be characterized as such.

444 (6) The department may not be held liable in a civil
 445 action for damages resulting from the granting, denying,
 446 suspending, or revoking of a designation as a best practices
 447 farm labor contractor.

448 (7) The department shall establish an incentive program
 449 for farm labor contractors who hold a valid best practices
 450 designation.

451 Section 15. Subsection (10) of section 450.33, Florida
 452 Statutes, is amended, and subsection (11) is added to said
 453 section, to read:

454 450.33 Duties of farm labor contractor.--Every farm labor
 455 contractor must:

456 (10) Comply with all applicable statutes, rules, and
 457 regulations of the United States and of the State of Florida for
 458 the protection or benefit of labor, including, but not limited
 459 to, those providing for wages, hours, fair labor standards,
 460 social security, workers' compensation, unemployment
 461 compensation, child labor, and transportation. ~~The department~~
 462 ~~shall not suspend or revoke a certificate of registration~~
 463 ~~pursuant to this subsection unless:~~

464 ~~(a) A court or agency of competent jurisdiction renders a~~
 465 ~~judgment or other final decision that a violation of one of the~~
 466 ~~laws, rules, or regulations has occurred and, if invoked, the~~
 467 ~~appellate process is exhausted;~~

468 ~~(b) An administrative hearing pursuant to ss. 120.569 and~~
 469 ~~120.57 is held on the suspension or revocation and the~~
 470 ~~administrative law judge finds that a violation of one of the~~

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

473 ~~(c) The holder of a certificate of registration stipulates~~
 474 ~~that a violation has occurred or defaults in the administrative~~
 475 ~~proceedings brought to suspend or revoke his or her~~
 476 ~~registration.~~

477 (11) Maintain accurate daily field records for each
 478 employee actually paid by the farm labor contractor reflecting
 479 the hours worked for the farm labor contractor and, if paid by
 480 unit, the number of units harvested and the amount paid per
 481 unit.

482 Section 16. Subsections (4) and (5) are added to section
 483 450.34, Florida Statutes, to read:

484 450.34 Prohibited acts of farm labor contractor.--A
 485 licensee may not:

486 (4) Retaliate against any person that has filed a
 487 complaint or aided an investigation pursuant to this part.

488 (5) Contract with or employ any person acting in the
 489 capacity of a farm labor contractor, or performing activities
 490 defined in s. 450.28(1), when that person does not have a
 491 current certificate of registration issued by the department
 492 pursuant to the requirements of this part.

493 Section 17. Section 450.35, Florida Statutes, is amended
 494 to read:

495 450.35 Certain contracts or employment prohibited.--It is
 496 unlawful for any person to contract with or employ ~~for the~~
 497 ~~employment of farm workers with~~ any farm labor contractor as
 498 defined in this act, for matters relating to farm labor, until

499 the labor contractor displays to him or her a current
 500 certificate of registration issued by the department pursuant to
 501 the requirements of this part. A violation of this section is
 502 subject to the penalties provided for violations in s.
 503 450.38(1).

504 Section 18. Section 450.37, Florida Statutes, is amended
 505 to read:

506 450.37 Cooperation with state and federal agencies.--The
 507 department shall, whenever appropriate, cooperate with any
 508 federal agency. The department may cooperate with and enter into
 509 agreements with any other state agency to administer this
 510 chapter or secure uniform rules.

511 Section 19. Section 450.38, Florida Statutes, is amended
 512 to read:

513 450.38 Enforcement of farm labor ~~contractor~~ laws.--

514 (1) Any person, firm, association, or corporation not
 515 excluded under s. 450.29 that commits a minor violation ~~who~~
 516 ~~violates any provision~~ of this part and, upon conviction, is
 517 guilty of ~~commits~~ a misdemeanor of the second degree, is
 518 punishable as provided in s. 775.082 or s. 775.083.

519 (2) Any person, firm, association, or corporation that
 520 commits a major violation of this part and, upon conviction, is
 521 guilty of a felony of the third degree, is punishable as
 522 provided in s. 775.082, s. 775.083, or s. 775.084.

523 (3)(2) Any person, firm, association, or corporation that
 524 ~~who, on or after June 19, 1985,~~ commits a violation of this part
 525 or of any rule adopted thereunder may be assessed a civil
 526 penalty of not more than \$2,500 ~~\$1,000~~ for each such violation.

527 Such assessed penalties shall be paid by cashier's check ~~in~~
 528 ~~cash~~, certified check, or money order and shall be deposited
 529 into the General Revenue Fund. The department shall not
 530 institute or maintain any administrative proceeding to assess a
 531 civil penalty under this subsection when the violation is the
 532 subject of a criminal indictment or information under this
 533 section which results in a criminal penalty being imposed, or of
 534 a criminal, civil, or administrative proceeding by the United
 535 States government or an agency thereof which results in a
 536 criminal or civil penalty being imposed. The department may
 537 adopt rules prescribing the criteria to be used to determine the
 538 amount of the civil penalty and to provide notification to
 539 persons assessed a civil penalty under this section.

540 ~~(4)(3)~~ Upon a complaint of the department being filed in
 541 the circuit court of the county in which the farm labor
 542 contractor resides or may be doing business, any farm labor
 543 contractor who fails to obtain a certificate of registration as
 544 required by this part may, in addition to such penalties, be
 545 enjoined from engaging in any activity which requires the farm
 546 labor contractor to possess a certificate of registration.

547 ~~(5)(4)~~ For the purpose of any investigation or proceeding
 548 conducted by the department, the secretary of the department or
 549 the secretary's designee shall have the power to administer
 550 oaths, take depositions, make inspections when authorized by
 551 statute, issue subpoenas which shall be supported by affidavit,
 552 serve subpoenas and other process, and compel the attendance of
 553 witnesses and the production of books, papers, documents, and
 554 other evidence. The secretary of the department or the

555 secretary's designee shall exercise this power on the
 556 secretary's own initiative.

557 (6) A farm labor contractor who commits a minor violation
 558 of this part shall be issued a warning for the first violation.
 559 A civil penalty in increments of \$250 may be assessed for each
 560 successive violation of a specific statute or rule of this part
 561 up to a maximum of \$2,500.

562 (7) A farm labor contractor who commits a major violation
 563 of a specific statute or rule of this part shall be assessed a
 564 civil penalty of up to \$2,500 in accordance with the criteria
 565 established by the department pursuant to s. 450.38.

566 Section 20. Section 450.39, Florida Statutes, is created
 567 to read:

568 450.39 Prohibition against required purchase; prohibition
 569 against excessive charges.--

570 (1) A farm labor contractor may not require any farmworker
 571 to purchase goods or services solely from such farm labor
 572 contractor or from a person acting as an agent for such farm
 573 labor contractor.

574 (2) A farm labor contractor may not charge a farmworker
 575 more than a reasonable cost for any commodity, including
 576 housing, food, water, or other consumables, in accordance with
 577 Title 29 C.F.R. s. 531.3. As used in this subsection, the term
 578 "reasonable cost" does not include a profit to the farm labor
 579 contractor or to any other person acting as an agent for the
 580 farm labor contractor.

581 Section 21. Section 487.011, Florida Statutes, is amended
 582 to read:

583 487.011 Popular name ~~Short title~~; administration.--This
 584 part shall ~~chapter may~~ be known by the popular name ~~cited as~~ the
 585 "Florida Pesticide Law" and shall be administered by the
 586 Department of Agriculture and Consumer Services.

587 Section 22. Section 487.012, Florida Statutes, is amended
 588 to read:

589 487.012 Declaration of purpose.--The purpose of this part
 590 ~~chapter~~ is to regulate the distribution, sale, and use of
 591 pesticides, except as provided in chapters 388 and 482, and to
 592 protect people and the environment from the adverse effects of
 593 pesticides.

594 Section 23. Section 487.021, Florida Statutes, is amended
 595 to read:

596 487.021 Definitions.--For the purpose of this part
 597 ~~chapter~~:

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

605 (2) "Active ingredient" means:

606 (a) In the case of a pesticide other than a plant
 607 regulator, defoliant, or desiccant, an ingredient which will
 608 prevent, destroy, repel, or mitigate insects, nematodes, fungi,
 609 rodents, weeds, or other pests.

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

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

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

618 (3) "Added ingredient" means any plant nutrient or plant
 619 regulator added to the mixture which is not an active pesticidal
 620 ingredient, but which the manufacturer wishes to show on the
 621 label.

622 (4) "Adulterated" applies to any pesticide if its strength
 623 or purity falls below or is in excess of the professed standard
 624 of quality as expressed on labeling or under which it is sold,
 625 if any substance has been substituted wholly or in part for the
 626 pesticide or if any valuable constituent of the pesticide has
 627 been wholly or in part abstracted.

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

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

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

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

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

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

644 (11) "Antisiphon device" means a safety device used to
 645 prevent the backflow of a mixture of water and chemicals into
 646 the water supply.

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

650 (13) "Brand" means the name, number, trademark, or any
 651 other designation which distinguishes one pesticide product from
 652 another.

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

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

661 (16) "Commercial applicator" means an individual who has
 662 reached the age of majority and is licensed by the department to
 663 use or supervise the use of any restricted-use pesticide for any

664 | purpose on any property other than as provided by the
 665 | definitions of "private applicator," "product specific
 666 | applicator," or "public applicator," whether or not the
 667 | individual is a private applicator with respect to some uses.

668 | (17) "Dealer" means any person, other than the
 669 | manufacturer or distributor, who offers for sale, sells,
 670 | barter, or otherwise supplies pesticides to the ultimate user
 671 | or consumer.

672 | (18) "Deficiency" means the amount of an active ingredient
 673 | of a pesticide by which it fails to come up to its guaranteed
 674 | analysis when analyzed.

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

678 | (20) "Department" means the Department of Agriculture and
 679 | Consumer Services or its authorized representative.

680 | (21) "Desiccant" means any substance or mixture of
 681 | substances intended for artificially accelerating the drying of
 682 | plant tissues.

683 | (22) "Device" means any instrument or contrivance (other
 684 | than a firearm) which is intended for trapping, destroying,
 685 | repelling, or mitigating, any pest or other form of plant or
 686 | animal life (other than human and other than bacteria, virus, or
 687 | other microorganism on or in living humans or other living
 688 | animals); but not including equipment used for the application
 689 | of pesticides when sold separately.

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

692 (24) "Distributor" means any person who offers for sale,
 693 holds for sale, sells, barter, or supplies pesticides in this
 694 state.

695 (25) "Emergency exemption" means an exemption as
 696 authorized in s. 18 of the Federal Insecticide, Fungicide, and
 697 Rodenticide Act.

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

700 (27) "Equipment" means any type of ground, aquatic, or
 701 aerial device used to apply any pesticide on land, and on
 702 anything that may be growing, habituating, or stored on or in
 703 the land. Equipment does not include any pressurized hand-size
 704 household device used to apply any pesticide, or any other
 705 device where the person applying the pesticide is the source of
 706 power for applying the pesticide.

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

709 (29) "Experimental use permit" means a permit issued by
 710 the department or by the United States Environmental Protection
 711 Agency as authorized in s. 5 of the Federal Insecticide,
 712 Fungicide, and Rodenticide Act.

713 (30) "Fungi" means all non-chlorophyll-bearing
 714 thallophytes (that is, all non-chlorophyll-bearing plants of a
 715 lower order than mosses and liverworts), as, for example, rusts,
 716 smuts, mildews, molds, yeasts, and bacteria, except those on or
 717 in living humans or other animals.

718 (31) "Highly toxic" means any highly poisonous pesticide
719 as determined by the rules promulgated pursuant to this part
720 ~~chapter~~.

721 (32) "Imminent hazard" means a situation which exists when
722 the continued use of a pesticide during the time required for
723 cancellation proceedings would be likely to result in
724 unreasonable adverse effects on the environment or will involve
725 unreasonable hazard to the survival of a species declared
726 endangered.

727 (33) "Ineffective" means that pesticides such as
728 bacteriostats, disinfectants, germicides, sanitizers, and like
729 products fail to meet microbiological claims when tested in the
730 laboratory utilizing the officially approved procedures of the
731 Association of Official Analytical Chemists or other methods or
732 procedures as the department may find necessary.

733 (34) "Inert ingredient" means an ingredient which is not
734 an active ingredient.

735 (35) "Ingredient statement" means a statement of the name
736 and percentage by weight of each active ingredient, together
737 with the total percentage of the inert ingredients in the
738 pesticides.

739 (36) "Insect" means any of the numerous small invertebrate
740 animals generally having the body more or less obviously
741 segmented, for the most part belonging to the class Insecta,
742 comprising six legs, usually in winged form (as, for example,
743 beetles, bugs, bees, and flies) and to other allied classes and
744 arthropods whose members are wingless and usually have more than

745 six legs (as, for example, spiders, mites, ticks, centipedes,
746 and wood lice).

747 (37) "Irrigation system" means any device or combination
748 of devices having a hose, pipe, or other conduit which connects
749 directly to any source of ground or surface water, through which
750 device or combination of devices water or a mixture of water and
751 chemicals is drawn and applied for agricultural purposes. The
752 term does not include any handheld hose sprayer or other similar
753 device which is constructed so that an interruption in water
754 flow automatically prevents any backflow to the water source.

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

758 (39) "Labeling" means all labels and other written,
759 printed, or graphic matter referencing the pesticide or device
760 or upon any of its containers or wrappers, or accompanying the
761 pesticide or device at any time, but does not include accurate,
762 nonmisleading reference to current official publications of the
763 United States Departments of Agriculture or Interior, the
764 Environmental Protection Agency, the United States Public Health
765 Service, state experiment stations, state agricultural colleges,
766 or other similar federal institutions or official agencies of
767 this state or other states authorized by law to conduct research
768 in the field of pesticides.

769 (40) "Land" means all land and water areas, including
770 airspace.

771 (41) "Licensed applicator" means an individual who has
772 reached the age of majority and is authorized by license from

773 | the department to use or supervise the use of any restricted-use
 774 | pesticide covered by the license.

775 | (42) "Manufacturer" means a person engaged in the business
 776 | of importing, producing, preparing, mixing, formulating, or
 777 | reformulating pesticides for the purpose of distribution.

778 | (43) "Mixer-loader" means any individual who handles open
 779 | containers or otherwise prepares, processes, or dilutes
 780 | pesticides in preparation for final application.

781 | (44) "Nematode" means invertebrate animals of the phylum
 782 | Nemathelminthes and class Nematoda (that is, unsegmented round
 783 | worms with elongated, fusiform, or saclike bodies covered with
 784 | cuticle and inhabiting soil, water, plants, or plant parts), and
 785 | may also be known as nemas or eelworms.

786 | (45) "Official sample" means any sample of a pesticide
 787 | taken by the department in accordance with the provisions of
 788 | this part ~~chapter~~ or rules adopted under this part ~~chapter~~, and
 789 | designated as official by the department.

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

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

794 | (48) "Pest" means:

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

796 | (b) Any other form of terrestrial or aquatic plant or
 797 | animal life or virus, bacteria, or other microorganism, except
 798 | viruses, bacteria, or other microorganisms on or in living
 799 | humans or other living animals, which is declared to be a pest
 800 | by the administrator of the United States Environmental

801 Protection Agency or which may be declared to be a pest by the
 802 department by rule.

803 (49) "Pesticide" means any substance or mixture of
 804 substances intended for preventing, destroying, repelling, or
 805 mitigating any insects, rodents, nematodes, fungi, weeds, or
 806 other forms of plant or animal life or viruses, except viruses,
 807 bacteria, or fungi on or in living humans or other animals,
 808 which the department by rule declares to be a pest, and any
 809 substance or mixture of substances intended for use as a plant
 810 regulator, defoliant, or desiccant; however, the term
 811 "pesticide" does not include any article that:

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

814 (b) Has been determined by the Secretary of the United
 815 States Department of Health and Human Services not to be a new
 816 animal drug by a regulation establishing conditions of use for
 817 the article; or

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

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

824 (51) "Plant regulator" means any substance or mixture of
 825 substances intended, through physiological action, for
 826 accelerating or retarding the rate of growth or maturation, or
 827 for otherwise altering the behavior, of ornamental or crop
 828 plants or the produce thereof; but does not include substances

829 | intended as plant nutrients, trace elements, nutritional
830 | chemicals, plant inoculants, or soil amendments.

831 | (52) "Private applicator" means an individual who has
832 | reached the age of majority and is licensed by the department to
833 | use or supervise the use of any restricted-use pesticide for
834 | purposes of producing any agricultural commodity on property
835 | owned or rented by his or her employer, or, if applied without
836 | compensation other than the trading of personal services between
837 | producers of agricultural commodities, on the property of
838 | another person.

839 | (53) "Product" means a unique pesticide and label as
840 | distinguished by its individually assigned United States
841 | Environmental Protection Agency registration number, special
842 | local need registration number, or experimental use permit
843 | number.

844 | (54) "Protect health and the environment" means protection
845 | against any unreasonable adverse effects on people or the
846 | environment.

847 | (55) "Public applicator" means an individual who has
848 | reached the age of majority and is licensed by the department to
849 | use or supervise the use of restricted-use pesticides as an
850 | employee of a state agency, municipal corporation, or other
851 | governmental agency.

852 | (56) "Product specific applicator" means an individual who
853 | has reached the age of majority and is licensed by the
854 | department to use or supervise the use of a particular
855 | restricted-use pesticide product that is identified on the
856 | license by the United States Environmental Protection Agency

857 registration number, as well as any Florida special local need
 858 registration number and any specific identifying information as
 859 deemed appropriate for nonfederally registered products exempt
 860 under s. 18 of the Federal Insecticide, Fungicide, and
 861 Rodenticide Act, provided that the restricted-use pesticide
 862 product is used for the purpose of producing agricultural
 863 commodities on property owned or rented by the licensee or the
 864 licensee's employer, or is applied on the property of another
 865 person without compensation other than trading of personal
 866 services between producers of agricultural commodities.

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

869 (58) "Restricted-use pesticide" means a pesticide which,
 870 when applied in accordance with its directions for use,
 871 warnings, and cautions and for uses for which it is registered
 872 or for one or more such uses, or in accordance with a widespread
 873 and commonly recognized practice, may generally cause, without
 874 additional regulatory restrictions, unreasonable adverse effects
 875 on the environment, or injury to the applicator or other
 876 persons, and which has been classified as a restricted-use
 877 pesticide by the department or the administrator of the United
 878 States Environmental Protection Agency.

879 (59) "Sell or sale" includes exchanges.

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

883 (61) "Special review" is a process for reviewing selected
 884 pesticides based upon information that the pesticides have been

885 found to present environmental or health concerns not considered
 886 in the registration process or that data submitted in support of
 887 registration are inadequate or outdated.

888 (62) "Tolerance" means the deviation from the guaranteed
 889 analysis permitted by law.

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

894 (64) "Under the direct supervision of a licensed
 895 applicator" means, unless otherwise prescribed by its labeling,
 896 a pesticide that must be applied by a competent person acting
 897 under the instruction and control of a licensed applicator who
 898 is available if and when needed, even though the licensed
 899 applicator is not physically present when the pesticide is
 900 applied.

901 (65) "Unreasonable adverse effects on the environment"
 902 means any unreasonable risk to humans or the environment, taking
 903 into account the economic, social, and environmental costs and
 904 benefits of the use of any pesticide.

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

908 (67) "Weed" means any plant which grows where not wanted.

909 Section 24. Subsection (2) of section 487.025, Florida
 910 Statutes, is amended to read:

911 487.025 Misbranding.--

912 (2) A pesticide is misbranded if:

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

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

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

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

923 (e) The label does not bear an ingredient statement on
 924 that part of the immediate container, and on the outside
 925 container or wrapper, if there is one, through which the
 926 ingredient statement on the immediate container cannot be
 927 clearly read, of the retail package which is presented or
 928 displayed under customary conditions of purchase.

929 (f) Any word, statement, or other information required by
 930 or under authority of this part ~~chapter~~ to appear on the
 931 labeling is not prominently placed thereon with such
 932 conspicuousness, as compared with other words, statements,
 933 designs, or graphic matter in the labeling, and in such terms as
 934 to render it likely to be read and understood by the ordinary
 935 individual under customary conditions of purchase and use.

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

940 (h) In the case of a plant regulator, defoliant, or
 941 desiccant, when used as directed, it is injurious to living
 942 humans or other vertebrate animals, or vegetation, to which it
 943 is applied, or to the person applying such pesticide. However,
 944 physical or physiological effects on plants or parts thereof
 945 shall not be deemed to be injury when this is the purpose for
 946 which the plant regulator, defoliant, or desiccant was applied
 947 in accordance with the label claims and recommendations.

948 (i) Any ingredient which is present in amounts which are
 949 not likely to be effective when used according to directions is
 950 given undue prominence or conspicuousness, as compared with
 951 ingredients which are present in effective amounts, in its
 952 labeling. Such ingredient shall appear only in the ingredient
 953 statement.

954 (j) It is found to be ineffective when tested in the
 955 laboratory.

956 (k) It is found by the department to be of short measure.

957 Section 25. Subsections (2), (4), (5), and (13) of section
 958 487.031, Florida Statutes, are amended to read:

959 487.031 Prohibited acts.--It is unlawful:

960 (2) To distribute, sell, or offer for sale within this
 961 state any pesticide or product which has not been registered
 962 pursuant to the provisions of this part ~~chapter~~, except
 963 pesticides distributed, sold, offered for sale, or used in
 964 accordance with the provisions of federal or state restriction,
 965 supervision, or cancellation orders or other existing stock
 966 agreements.

967 (4) To detach, alter, deface, or destroy, in whole or in
 968 part, any label or labeling provided for in this part ~~chapter~~ or
 969 rules promulgated under this part ~~chapter~~, or to add any
 970 substance to, or take any substance from, any pesticide in a
 971 manner that may defeat the purpose of this part ~~chapter~~.

972 (5) For any person to use for his or her own advantage or
 973 to reveal any information relative to formulas of products
 974 acquired by authority of this part ~~chapter~~, other than to: the
 975 department, proper officials, or employees of the state; the
 976 courts of this state in response to a subpoena; physicians,
 977 pharmacists, and other qualified persons, in an emergency, for
 978 use in the preparation of antidotes. The information relative to
 979 formulas of products is confidential and exempt from the
 980 provisions of s. 119.07(1).

981 (13) For any person to:

982 (a) Make a false or fraudulent claim through any medium,
 983 misrepresenting the effect of materials or methods used;

984 (b) Make a pesticide recommendation or application not in
 985 accordance with the label, except as provided in this section,
 986 or not in accordance with recommendations of the United States
 987 Environmental Protection Agency or not in accordance with the
 988 specifications of a special local need registration;

989 (c) Operate faulty or unsafe equipment;

990 (d) Operate in a faulty, careless, or negligent manner;

991 (e) Apply any pesticide directly to, or in any manner
 992 cause any pesticide to drift onto, any person or area not
 993 intended to receive the pesticide;

994 (f) Fail to disclose to an agricultural crop grower, prior
 995 to the time pesticides are applied to a crop, full information
 996 regarding the possible harmful effects to human beings or
 997 animals and the earliest safe time for workers or animals to
 998 reenter the treated field;

999 (g) Refuse or, after notice, neglect to comply with the
 1000 provisions of this part ~~chapter~~, the rules adopted under this
 1001 part ~~chapter~~, or any lawful order of the department;

1002 (h) Refuse or neglect to keep and maintain the records
 1003 required by this part ~~chapter~~ or to submit reports when and as
 1004 required;

1005 (i) Make false or fraudulent records, invoices, or
 1006 reports;

1007 (j) Use fraud or misrepresentation in making an
 1008 application for a license or license renewal;

1009 (k) Refuse or neglect to comply with any limitations or
 1010 restrictions on or in a duly issued license;

1011 (l) Aid or abet a licensed or unlicensed person to evade
 1012 the provisions of this part ~~chapter~~, or combine or conspire with
 1013 a licensed or unlicensed person to evade the provisions of this
 1014 part ~~chapter~~, or allow a license to be used by an unlicensed
 1015 person;

1016 (m) Make false or misleading statements during or after an
 1017 inspection concerning any infestation or infection of pests
 1018 found on land;

1019 (n) Make false or misleading statements, or fail to
 1020 report, pursuant to this part ~~chapter~~, any suspected or known

1021 damage to property or illness or injury to persons caused by the
 1022 application of pesticides;

1023 (o) Impersonate any state, county, or city inspector or
 1024 official;

1025 (p) Fail to maintain a current liability insurance policy
 1026 or surety bond as provided for in this part ~~chapter~~;

1027 (q) Fail to adequately train, as provided for in this part
 1028 ~~chapter~~, unlicensed applicators or mixer-loaders applying
 1029 restricted-use pesticides under the direct supervision of a
 1030 licensed applicator; or

1031 (r) Fail to provide authorized representatives of the
 1032 department with records required by this part ~~chapter~~ or with
 1033 free access for inspection and sampling of any pesticide, areas
 1034 treated with or impacted by these materials, and equipment used
 1035 in their application.

1036 Section 26. Subsections (2), (3), and (8) of section
 1037 487.041, Florida Statutes, are amended to read:

1038 487.041 Registration.--

1039 (2) For the purpose of defraying expenses of the
 1040 department in connection with carrying out the provisions of
 1041 this part ~~chapter~~, each person shall pay an annual registration
 1042 fee of \$250 for each registered pesticide. The annual
 1043 registration fee for each special local need label and
 1044 experimental use permit shall be \$100. All registrations expire
 1045 on December 31 of each year. Nothing in this section shall be
 1046 construed as applying to distributors or retail dealers selling
 1047 pesticides when such pesticides are registered by another
 1048 person.

1049 (3) The department shall adopt rules governing the
1050 procedures for pesticide registration and for the review of data
1051 submitted by an applicant for registration of a pesticide. The
1052 department shall determine whether a pesticide should be
1053 registered, registered with conditions, or tested under field
1054 conditions in this state. The department shall determine that
1055 all requests for pesticide registrations meet the requirements
1056 of current state and federal law. The department, whenever it
1057 deems it necessary in the administration of this part ~~chapter~~,
1058 may require the manufacturer or registrant to submit the
1059 complete formula, quantities shipped into or manufactured in the
1060 state for distribution and sale, evidence of the efficacy and
1061 the safety of any pesticide, and other relevant data. The
1062 department may review and evaluate a registered pesticide if new
1063 information is made available which indicates that use of the
1064 pesticide has caused an unreasonable adverse effect on public
1065 health or the environment. Such review shall be conducted upon
1066 the request of the secretary of the Department of Health in the
1067 event of an unreasonable adverse effect on public health or the
1068 secretary of the Department of Environmental Protection in the
1069 event of an unreasonable adverse effect on the environment. Such
1070 review may result in modifications, revocation, cancellation, or
1071 suspension of a pesticide registration. The department, for
1072 reasons of adulteration, misbranding, or other good cause, may
1073 refuse or revoke the registration of any pesticide, after notice
1074 to the applicant or registrant giving the reason for the
1075 decision. The applicant may then request a hearing, pursuant to
1076 chapter 120, on the intention of the department to refuse or

1077 | revoke registration, and, upon his or her failure to do so, the
 1078 | refusal or revocation shall become final without further
 1079 | procedure. In no event shall registration of a pesticide be
 1080 | construed as a defense for the commission of any offense
 1081 | prohibited under this part ~~chapter~~.

1082 | (8) Nothing in this section affects the authority of the
 1083 | department to administer the pesticide registration program
 1084 | under this part ~~chapter~~ or the authority of the Commissioner of
 1085 | Agriculture to approve the registration of a pesticide.

1086 | Section 27. Section 487.0435, Florida Statutes, is amended
 1087 | to read:

1088 | 487.0435 License classification.--The department shall
 1089 | issue certified applicator licenses in the following
 1090 | classifications: certified public applicator; certified private
 1091 | applicator; and certified commercial applicator. In addition,
 1092 | separate classifications and subclassifications may be specified
 1093 | by the department in rule as deemed necessary to carry out the
 1094 | provisions of this part ~~chapter~~. Each classification shall be
 1095 | subject to requirements or testing procedures to be set forth by
 1096 | rule of the department and shall be restricted to the activities
 1097 | within the scope of the respective classification as established
 1098 | in statute or by rule. In specifying classifications, the
 1099 | department may consider, but is not limited to, the following:

1100 | (1) Whether the license sought is for commercial, public,
 1101 | or private applicator status.

1102 | (2) The method of applying the restricted-use pesticide.

1103 | (3) The specific crops upon which restricted-use
 1104 | pesticides are applied.

1105 (4) The proximity of populated areas to the land upon
 1106 which restricted-use pesticides are applied.

1107 (5) The acreage under the control of the licensee.

1108 (6) The pounds of technical restricted toxicant applied
 1109 per acre per year by the licensee.

1110 Section 28. Section 487.045, Florida Statutes, is amended
 1111 to read:

1112 487.045 Fees.--

1113 (1) The department shall establish applicable fees by
 1114 rule. The fees shall not exceed \$250 for commercial applicators
 1115 or \$100 for private applicators and public applicators, for
 1116 initial licensing and for each subsequent license renewal. The
 1117 fees shall be determined annually and shall represent department
 1118 costs associated with enforcement of the provisions of this part
 1119 ~~chapter~~.

1120 (2) Fees collected under the provisions of this part
 1121 ~~chapter~~ shall be deposited into the General Inspection Trust
 1122 Fund and shall be used to defray expenses in the administration
 1123 of this part ~~chapter~~.

1124 Section 29. Subsection (2) of section 487.046, Florida
 1125 Statutes, is amended to read:

1126 487.046 Application; licensure.--

1127 (2) If the department finds the applicant qualified in the
 1128 classification for which the applicant has applied, and if the
 1129 applicant applying for a license to engage in aerial application
 1130 of pesticides has met all of the requirements of the Federal
 1131 Aviation Agency and the Department of Transportation of this
 1132 state to operate the equipment described in the application and

1133 | has shown proof of liability insurance or posted a surety bond
 1134 | in an amount to be set forth by rule of the department, the
 1135 | department shall issue a certified applicator's license, limited
 1136 | to the classifications for which the applicant is qualified. The
 1137 | license shall expire as required by rules promulgated under this
 1138 | part ~~chapter~~, unless it has been revoked or suspended by the
 1139 | department prior to expiration, for cause as provided in this
 1140 | part ~~chapter~~. The license or authorization card issued by the
 1141 | department verifying licensure shall be kept on the person of
 1142 | the licensee while performing work as a licensed applicator.

1143 | Section 30. Section 487.047, Florida Statutes, is amended
 1144 | to read:

1145 | 487.047 Nonresident license; reciprocal agreement;
 1146 | authorized purchase.--

1147 | (1) The department may waive all or part of the
 1148 | examination requirements provided for in this part ~~chapter~~ on a
 1149 | reciprocal basis with any other state or agency, or an Indian
 1150 | tribe, that has substantially the same or better standards.

1151 | (2) Any nonresident applying for a license under this part
 1152 | ~~chapter~~ to operate in the state shall file a Designation of
 1153 | Registered Agent naming the Secretary of State as the agent of
 1154 | the nonresident, upon whom process may be served in the event of
 1155 | any suit against the nonresident. The designation shall be
 1156 | prepared on a form provided by the department and shall render
 1157 | effective the jurisdiction of the courts of this state over the
 1158 | nonresident applicant. However, any nonresident who has a duly
 1159 | appointed registered agent upon whom process may be served as
 1160 | provided by law shall not be required to designate the Secretary

1161 of State as registered agent. The Secretary of State shall be
 1162 allowed the registered-agent fees as provided by law for
 1163 designating registered agents. The department shall be furnished
 1164 with a copy of the designation of the Secretary of State or of a
 1165 registered agent which is certified by the Secretary of State.
 1166 The Secretary of State shall notify the department of any
 1167 service of process it receives as registered agent for persons
 1168 licensed under this part ~~chapter~~.

1169 (3) Restricted-use pesticides may be purchased by any
 1170 person who holds a valid applicator's license or who holds a
 1171 valid purchase authorization card issued by the department or by
 1172 a licensee under chapter 482 or chapter 388. A nonlicensed
 1173 person may apply restricted-use pesticides under the direct
 1174 supervision of a licensed applicator. An applicator's license
 1175 shall be issued by the department on a form supplied by it in
 1176 accordance with the requirements of this part ~~chapter~~.

1177 Section 31. Subsection (1) of section 487.049, Florida
 1178 Statutes, is amended to read:

1179 487.049 Renewal; late fee; recertification.--

1180 (1) The department shall require renewal of a certified
 1181 applicator's license at 4-year intervals from the date of
 1182 issuance. If the application for renewal of any license provided
 1183 for in this part ~~chapter~~ is not filed on time, a late fee shall
 1184 be assessed not to exceed \$50. However, the penalty shall not
 1185 apply if the renewal application is filed within 60 days after
 1186 the renewal date, provided the applicant furnishes an affidavit
 1187 certifying that he or she has not engaged in business subsequent
 1188 to the expiration of the license for a period not exceeding 60

1189 | days. A license may be renewed without taking another
 1190 | examination unless the department determines that new knowledge
 1191 | related to the classification for which the applicant has
 1192 | applied makes a new examination necessary; however, the
 1193 | department may require the applicant to provide evidence of
 1194 | continued competency, as determined by rule. If the license is
 1195 | not renewed within 60 days after ~~of~~ the expiration date, then
 1196 | the licensee may again be required to take another examination,
 1197 | unless there is some unavoidable circumstance which results in
 1198 | the delay of the renewal of any license issued under this part
 1199 | ~~chapter~~ which was not under the applicant's control.

1200 | Section 32. Paragraph (b) of subsection (1) and subsection
 1201 | (2) of section 487.051, Florida Statutes, are amended to read:

1202 | 487.051 Administration; rules; procedure.--

1203 | (1) The department may by rule:

1204 | (b) Establish procedures for the taking and handling of
 1205 | samples and establish tolerances and deficiencies where not
 1206 | specifically provided for in this part ~~chapter~~; assess
 1207 | penalties; and prohibit the sale or use of pesticides or devices
 1208 | shown to be detrimental to human beings, the environment, or
 1209 | agriculture or to be otherwise of questionable value.

1210 | (2) The department is authorized to adopt by rule the
 1211 | primary standards established by the United States Environmental
 1212 | Protection Agency with respect to pesticides. If the provisions
 1213 | of this part ~~chapter~~ are preempted in part by federal law, those
 1214 | provisions not preempted shall apply. This part ~~chapter~~ is
 1215 | intended as comprehensive and exclusive regulation of pesticides
 1216 | in this state. Except as provided in chapters 373, 376, 388,

1217 403, and 482, or as otherwise provided by law, no agency,
 1218 commission, department, county, municipality, or other political
 1219 subdivision of the state may adopt laws, regulations, rules, or
 1220 policies pertaining to pesticides, including their registration,
 1221 packaging, labeling, distribution, sale, or use, except that
 1222 local jurisdictions may adopt or enforce an ordinance pertaining
 1223 to pesticides if that ordinance is in the area of occupational
 1224 license taxes, building and zoning regulations, disposal or
 1225 spillage of pesticides within a water well zone, or pesticide
 1226 safety regulations relating to containment at the storage site.

1227 Section 33. Subsection (4) of section 487.0615, Florida
 1228 Statutes, is amended to read:

1229 487.0615 Pesticide Review Council.--

1230 (4) The council is defined as a "substantially interested
 1231 person" and has standing under chapter 120 in any proceeding
 1232 conducted by the department relating to the registration of a
 1233 pesticide under this part ~~chapter~~. The standing of the council
 1234 shall in no way prevent individual members of the council from
 1235 exercising standing in these matters.

1236 Section 34. Section 487.071, Florida Statutes, is amended
 1237 to read:

1238 487.071 Enforcement, inspection, sampling, and analysis.--

1239 (1) The department is authorized to enter upon any public
 1240 or private premises or carrier where pesticides are known or
 1241 thought to be distributed, sold, offered for sale, held, stored,
 1242 or applied, during regular business hours in the performance of
 1243 its duties relating to pesticides and records pertaining to
 1244 pesticides. No person shall deny or refuse access to the

1245 department when it seeks to enter upon any public or private
1246 premises or carrier during business hours in performance of its
1247 duties under this part ~~chapter~~.

1248 (2) The department is authorized and directed to sample,
1249 test, inspect, and make analyses of pesticides sold, offered for
1250 sale, distributed, or used within this state, at a time and
1251 place and to such an extent as it may deem necessary, to
1252 determine whether the pesticides or persons exercising control
1253 over the pesticides are in compliance with the provisions of
1254 this part ~~chapter~~, the rules adopted under this part ~~chapter~~,
1255 and the provisions of the pesticide label or labeling.

1256 (3) The official analysis shall be made from the official
1257 sample. A sealed and identified sample, herein called "official
1258 check sample" shall be kept until the analysis on the official
1259 sample is completed. However, the registrant may obtain upon
1260 request a portion of the official sample. Upon completion of the
1261 analysis of the official sample, a true copy of the certificate
1262 of analysis shall be mailed to the registrant of the pesticide
1263 from whom the official sample was taken and also to the dealer
1264 or agent, if any, and consumer, if known. If the official
1265 analysis conforms with the provisions of this part ~~chapter~~, the
1266 official check sample may be destroyed. If the official analysis
1267 does not conform with the provisions of this part ~~chapter~~, the
1268 rules adopted under this part ~~chapter~~, and the provisions of the
1269 pesticide label or labeling, the official check sample shall be
1270 retained for a period of 90 days from the date of the
1271 certificate of analysis of the official sample. If within that
1272 time the registrant of the pesticide from whom the official

1273 sample was taken makes demand for analysis by a referee chemist,
1274 a portion of the official check sample sufficient for analysis
1275 shall be sent to a referee chemist who is mutually acceptable to
1276 the department and the registrant for analysis at the expense of
1277 the registrant. Upon completion of the analysis, the referee
1278 chemist shall forward to the department and to the registrant a
1279 certificate of analysis bearing a proper identification mark or
1280 number; and such certificate of analysis shall be verified by an
1281 affidavit of the person or laboratory making the analysis. If
1282 the certificate of analysis checks within 3 percent of the
1283 department's analysis on each active ingredient for which
1284 analysis was made, the mean average of the two analyses shall be
1285 accepted as final and binding on all concerned. However, if the
1286 referee's certificate of analysis shows a variation of greater
1287 than 3 percent from the department's analysis in any one or more
1288 of the active ingredients for which an analysis was made, upon
1289 demand of either the department or the registrant from whom the
1290 official sample was taken, a portion of the official check
1291 sample sufficient for analysis shall be submitted to a second
1292 referee chemist who is mutually acceptable to the department and
1293 the registrant, at the expense of the party or parties
1294 requesting the referee analysis. Upon completion of the
1295 analysis, the second referee chemist shall make a certificate
1296 and report as provided in this subsection for the first referee
1297 chemist. The mean average of the two analyses nearest in
1298 conformity shall be accepted as final and binding on all
1299 concerned. If no demand is made for an analysis by a second

1300 referee chemist, the department's certificate of analysis shall
1301 be accepted as final and binding on all concerned.

1302 (4) If a pesticide or device fails to comply with the
1303 provisions of this part ~~chapter~~ with reference to the ingredient
1304 statement reflecting the composition of the product, as required
1305 on the registration and labeling, and the department
1306 contemplates possible criminal proceedings against the person
1307 responsible because of this violation, the department shall,
1308 after due notice, accord the person an informal hearing or an
1309 opportunity to present evidence and opinions, either orally or
1310 in writing, with regard to such contemplated proceedings. If in
1311 the opinion of the department the facts warrant, the department
1312 may refer the facts to the state attorney for the county in
1313 which the violation occurred, with a copy of the results of the
1314 analysis or the examination of such article; provided that
1315 nothing in this part ~~chapter~~ shall be construed as requiring the
1316 department to report for prosecution minor violations whenever
1317 it believes that the public interest will be subserved by a
1318 suitable notice of warning in writing.

1319 (5) It shall be the duty of each state attorney to whom
1320 any such violation is reported to cause appropriate proceedings
1321 to be instituted and prosecuted in a court of competent
1322 jurisdiction without delay.

1323 (6) The department shall, by publication in such manner as
1324 it may prescribe, give notice of all judgments entered in
1325 actions instituted under the authority of this part ~~chapter~~.

1326 (7)(a) The department may analyze pesticide samples upon
1327 request in a manner consistent with this part ~~chapter~~.

1328 (b) The department shall establish by rule a fee schedule
 1329 for pesticide samples analyzed upon request. The fees shall be
 1330 sufficient to cover the costs to the department for taking the
 1331 samples and performing the analysis. However, no fee shall
 1332 exceed \$400 per test.

1333 (c) The department shall keep separate records with
 1334 respect to requested pesticide analyses, including the pesticide
 1335 analyzed, tests performed, fees collected, the name and address
 1336 of the person who requested the analysis, and the name and
 1337 address of the registrant.

1338 (d) All fees collected pursuant to this subsection shall
 1339 be deposited into the General Inspection Trust Fund and shall be
 1340 used by the department to implement this subsection.

1341 (e) In addition to any other penalty provided by this part
 1342 ~~chapter~~, the registrant of any pesticide found to be
 1343 adulterated, misbranded, or otherwise deficient shall reimburse
 1344 the person requesting the pesticide analysis under this
 1345 subsection for all fees assessed by and paid to the department.

1346 Section 35. Subsections (2), (3), and (4) of section
 1347 487.081, Florida Statutes, are amended to read:

1348 487.081 Exemptions.--

1349 (2) No article shall be deemed in violation of this part
 1350 ~~chapter~~ when intended solely for export to a foreign country and
 1351 when prepared or packed according to the specifications or
 1352 directions of the purchaser.

1353 (3) Notwithstanding any other provision of this part
 1354 ~~chapter~~, registration required under this part ~~chapter~~ is not
 1355 required in the case of a pesticide stored or shipped from one

1356 manufacturing plant within this state to another manufacturing
 1357 plant within this state operated by the same person.

1358 (4) Nothing in this part ~~chapter~~ shall be construed to
 1359 apply to persons duly licensed or certified under chapter 388 or
 1360 chapter 482 performing any pest control or other operation for
 1361 which they are licensed or certified under those chapters.

1362 Section 36. Subsection (2) of section 487.091, Florida
 1363 Statutes, is amended to read:

1364 487.091 Tolerances, deficiencies, and penalties.--

1365 (2) If a pesticide is found by analysis to be deficient in
 1366 an active ingredient beyond the tolerance as provided in this
 1367 part ~~chapter~~, the registrant is subject to a penalty for the
 1368 deficiency, not to exceed \$10,000 per violation. However, no
 1369 penalty shall be assessed when the official sample was taken
 1370 from a pesticide that was in the possession of a consumer for
 1371 more than 45 days from the date of purchase by that consumer, or
 1372 when the product label specifies that the product should be used
 1373 by an expiration date that has passed. Procedures for assessing
 1374 penalties shall be established by rule, based on the degree of
 1375 the deficiency. Penalties assessed shall be paid to the consumer
 1376 or, in the absence of a known consumer, the department. If the
 1377 penalty is not paid within the prescribed period of time as
 1378 established by rule, the department may deny, suspend, or revoke
 1379 the registration of any pesticide.

1380 Section 37. Section 487.101, Florida Statutes, is amended
 1381 to read:

1382 487.101 Stop-sale, stop-use, removal, or hold orders.--

1383 (1) When a pesticide or device is being offered or exposed
1384 for sale, used, or held in violation of any of the provisions of
1385 this part ~~chapter~~, the department may issue and enforce a stop-
1386 sale, stop-use, removal, or hold order, in writing, to the owner
1387 or custodian of the pesticide or device, ordering that the
1388 pesticide or device be held at a designated place until the part
1389 ~~chapter~~ has been complied with and the pesticide or device is
1390 released, in writing, by the department or the violation has
1391 been disposed of by court order.

1392 (2) The written notice is warning to all persons,
1393 including, but not limited to, the owner or custodian of the
1394 pesticide or the owner's or custodian's agents or employees, to
1395 scrupulously refrain from moving, bothering, altering, or
1396 interfering with the pesticide or device or from altering,
1397 defacing, or in any way interfering with the written notice or
1398 permitting the same to be done. The willful violation of these
1399 provisions is a misdemeanor, subjecting the violator to the
1400 penalty provisions of this part ~~chapter~~.

1401 (3) The department shall release the pesticide or device
1402 under a stop-sale, stop-use, removal, or hold order when the
1403 owner or custodian complies with the provisions of this part
1404 ~~chapter~~.

1405 (4) The owner or custodian, with authorization and
1406 supervision of the department, may relabel the pesticide or
1407 device so that the label will conform to the product, or
1408 transfer and return the product to the manufacturer or supplier
1409 for the purpose of bringing the product in compliance with the
1410 provisions of this part ~~chapter~~.

1411 Section 38. Subsection (1) of section 487.111, Florida
 1412 Statutes, is amended to read:

1413 487.111 Seizure, condemnation, and sale.--

1414 (1) Any lot of pesticide or device not in compliance with
 1415 the provisions of this part ~~chapter~~ is subject to seizure on
 1416 complaint of the department to the circuit court in the county
 1417 in which the pesticide or device is located. In the event the
 1418 court finds the pesticide or device in violation of this part
 1419 ~~chapter~~ and orders it condemned, it shall be disposed of as the
 1420 court may direct; provided that in no instance shall the
 1421 disposition of the pesticide or device be ordered by the court
 1422 without first giving the owner or custodian an opportunity to
 1423 apply to the court for release of the pesticide or device or for
 1424 permission to process or relabel it to bring it into compliance
 1425 with this part ~~chapter~~.

1426 Section 39. Section 487.13, Florida Statutes, is amended
 1427 to read:

1428 487.13 Cooperation.--The department is authorized and
 1429 empowered to cooperate with and enter into agreements with any
 1430 other agency of this state, the United States Department of
 1431 Agriculture, the United States Environmental Protection Agency,
 1432 and any other state or federal agency for the purpose of
 1433 carrying out the provisions of this part ~~chapter~~ and securing
 1434 uniformity of regulations.

1435 Section 40. Section 487.156, Florida Statutes, is amended
 1436 to read:

1437 487.156 Governmental agencies.--All governmental agencies
 1438 shall be subject to the provisions of this part ~~chapter~~ and

1439 | rules adopted under this part ~~chapter~~. Public applicators using
1440 | or supervising the use of restricted-use pesticides shall be
1441 | subject to examination as provided in s. 487.044.

1442 | Section 41. Subsection (1) of section 487.159, Florida
1443 | Statutes, is amended to read:

1444 | 487.159 Damage or injury to property, animal, or person;
1445 | mandatory report of damage or injury; time for filing; failure
1446 | to file.--

1447 | (1) The person claiming damage or injury to property,
1448 | animal, or human beings from application of a pesticide shall
1449 | file with the department a written statement claiming damages,
1450 | on a form prescribed by the department, within 48 hours after
1451 | the damage or injury becomes apparent. The statement shall
1452 | contain, but shall not be limited to, the name of the person
1453 | responsible for the application of the pesticide, the name of
1454 | the owner or lessee of the land on which the crop is grown and
1455 | for which the damages are claimed, and the date on which it is
1456 | alleged that the damages occurred. The department shall
1457 | investigate the alleged damages and notify all concerned parties
1458 | of its findings. If the findings reveal a violation of the
1459 | provisions of this part ~~chapter~~, the department shall determine
1460 | an appropriate penalty, as provided in this part ~~chapter~~. The
1461 | filing of a statement or the failure to file such a statement
1462 | need not be alleged in any complaint which might be filed in a
1463 | court of law, and the failure to file the statement shall not be
1464 | considered any bar to the maintenance of any criminal or civil
1465 | action.

1466 Section 42. Section 487.161, Florida Statutes, is amended
1467 to read:

1468 487.161 Exemptions, nonagricultural pest control and
1469 research.--

1470 (1) Any person duly licensed or certified under chapter
1471 482, or under the supervision of chapter 388, is exempted from
1472 the licensing provisions of this part ~~chapter~~.

1473 (2) The use of the antibiotic oxytetracycline
1474 hydrochloride for the purpose of controlling lethal yellowing is
1475 exempted from the licensing provisions of this part ~~chapter~~.

1476 (3) The personnel of governmental, university, or
1477 industrial research agencies are exempted from the provisions of
1478 this part ~~chapter~~ when doing applied research within a
1479 laboratory, but shall comply with all the provisions of this
1480 part ~~chapter~~ when applying restricted-use pesticides to
1481 experimental or demonstration plots.

1482 Section 43. Section 487.163, Florida Statutes, is amended
1483 to read:

1484 487.163 Information; interagency cooperation.--

1485 (1) The department may, in cooperation with the University
1486 of Florida or other agencies of government, publish information
1487 and conduct short courses of instruction in the safe use and
1488 application of pesticides for the purpose of carrying out the
1489 provisions of this part ~~chapter~~.

1490 (2) The department may cooperate or enter into formal
1491 agreements with any other agency or educational institution of
1492 this state or its subdivisions or with any agency of any other
1493 state or of the Federal Government for the purpose of carrying

1494 out the provisions of this part ~~chapter~~ and of securing
 1495 uniformity of regulations.

1496 Section 44. Subsections (1), (2), and (3) of section
 1497 487.171, Florida Statutes, are amended to read:

1498 487.171 Classification of antifouling paint containing
 1499 organotin compounds as restricted-use pesticides; prohibition of
 1500 distribution and sale.--

1501 (1) The department shall classify antifouling paints
 1502 containing organotin compounds having an acceptable release rate
 1503 as restricted-use pesticides subject to the requirements of this
 1504 part ~~chapter~~. Antifouling paints containing organotin having
 1505 acceptable release rates and sold in spray cans of 16 ounces
 1506 avoirdupois weight or less for outboard motor or lower unit use
 1507 are exempt from the restricted-use pesticide classification
 1508 requirement.

1509 (2) The department shall initiate action under chapter
 1510 120, to deny or cancel the registration of antifouling paints
 1511 containing organotin compounds which do not have an acceptable
 1512 release rate or do not meet other criteria established by the
 1513 department in accordance with this part ~~chapter~~.

1514 (3) Distribution, sale, and use of antifouling paints
 1515 containing organotin compounds with acceptable release rates
 1516 shall be limited to dealers and applicators licensed by the
 1517 department in accordance with this part ~~chapter~~, to distribute,
 1518 sell, or use restricted-use pesticides. Such paint may be
 1519 applied only by licensed applicators and may be applied only to
 1520 vessels which exceed 25 meters in length or which have aluminum
 1521 hulls.

1522 Section 45. Section 487.175, Florida Statutes, is amended
 1523 to read:

1524 487.175 Penalties; administrative fine; injunction.--

1525 (1) In addition to any other penalty provided in this part
 1526 ~~chapter~~, when the department finds any person, applicant, or
 1527 licensee has violated any provision of this part ~~chapter~~ or rule
 1528 adopted under this part ~~chapter~~, it may enter an order imposing
 1529 any one or more of the following penalties:

1530 (a) Denial of an application for licensure.

1531 (b) Revocation or suspension of a license.

1532 (c) Issuance of a warning letter.

1533 (d) Placement of the licensee on probation for a specified
 1534 period of time and subject to conditions the department may
 1535 specify by rule, including requiring the licensee to attend
 1536 continuing education courses, to demonstrate competency through
 1537 a written or practical examination, or to work under the direct
 1538 supervision of another licensee.

1539 (e) Imposition of an administrative fine not to exceed
 1540 \$10,000 for each violation. When imposing any fine under this
 1541 paragraph, the department shall consider the degree and extent
 1542 of harm caused by the violation, the cost of rectifying the
 1543 damage, the amount of money the violator benefited from by
 1544 noncompliance, whether the violation was committed willfully,
 1545 and the compliance record of the violator.

1546 (2) Any person who violates any provision of this part
 1547 ~~chapter~~ or rules adopted pursuant thereto commits a misdemeanor
 1548 of the second degree and upon conviction is punishable as
 1549 provided in s. ss. 775.082 or s. ~~and~~ 775.083. For a subsequent

1550 violation, such person commits a misdemeanor of the first degree
 1551 and upon conviction is punishable as provided in s. ss. 775.082
 1552 or s. and 775.083.

1553 (3) In addition to the remedies provided in this part
 1554 ~~chapter~~ and notwithstanding the existence of any adequate remedy
 1555 at law, the department may bring an action to enjoin the
 1556 violation or threatened violation of any provision of this part
 1557 ~~chapter~~, or rule adopted under this part ~~chapter~~, in the circuit
 1558 court of the county in which the violation occurred or is about
 1559 to occur. Upon the department's presentation of competent and
 1560 substantial evidence to the court of the violation or threatened
 1561 violation, the court shall immediately issue the temporary or
 1562 permanent injunction sought by the department. The injunction
 1563 shall be issued without bond. A single act in violation of any
 1564 provision of this part ~~chapter~~ shall be sufficient to authorize
 1565 the issuance of an injunction.

1566 Section 46. Subsection (1) of section 482.242, Florida
 1567 Statutes, is amended to read:

1568 482.242 Preemption.--

1569 (1) This chapter is intended as comprehensive and
 1570 exclusive regulation of pest control in this state. The
 1571 provisions of this chapter preempt to the state all regulation
 1572 of the activities and operations of pest control services,
 1573 including the pesticides used pursuant to labeling and
 1574 registration approved under part I of chapter 487. No local
 1575 government or political subdivision of the state may enact or
 1576 enforce an ordinance that regulates pest control, except that
 1577 the preemption in this section does not prohibit a local

1578 government or political subdivision from enacting an ordinance
 1579 regarding any of the following:

1580 (a) Local occupational licenses adopted pursuant to
 1581 chapter 205.

1582 (b) Land development regulations adopted pursuant to
 1583 chapter 163 which include regulation of any aspect of
 1584 development, including a subdivision, building construction,
 1585 sign regulation or any other regulation concerning the
 1586 development of land, or landscaping or tree protection
 1587 ordinances which do not include pesticide application
 1588 restrictions.

1589 (c) Regulations that:

1590 1. Require, for multicomplex dwellings in excess of 10
 1591 units, annual termite inspections for termite activity or
 1592 damage, including Formosan termites, which must be performed by
 1593 a person licensed under this chapter.

1594 2. Require pest control treatments of structures that have
 1595 termite activity or damage which must be performed by a person
 1596 licensed under this chapter.

1597 3. Require property owners or other persons to obtain
 1598 inspections or pest control treatments performed by a person
 1599 licensed under this chapter.

1600
 1601 An ordinance by a local government or political subdivision
 1602 which requires an annual inspection or pest control treatment
 1603 must conform to current law.

1604 (d) Protection of wellhead protection areas and high
 1605 recharge areas.

1606 (e) Hazardous materials reporting as set forth in part II
 1607 of chapter 252, storage, and containment including as relating
 1608 to stormwater management.

1609 (f) Hazardous material unlawful discharge and disposal.

1610 (g) Hazardous materials remediation.

1611 Section 47. Section 487.2011, Florida Statutes, is created
 1612 to read:

1613 487.2011 Popular name; administration.--This part may be
 1614 known by the popular name the "Florida Agricultural Worker
 1615 Safety Act" and shall be administered by the Department of
 1616 Agriculture and Consumer Services.

1617 Section 48. Section 487.2021, Florida Statutes, is created
 1618 to read:

1619 487.2021 Legislative intent.--It is the intent of the
 1620 Legislature to ensure that agricultural workers employed in the
 1621 state receive protection from agricultural pesticides. The
 1622 Legislature intends to ensure that agricultural workers be given
 1623 information concerning agricultural pesticides.

1624 Section 49. Section 487.2031, Florida Statutes, is created
 1625 to read:

1626 487.2031 Definitions.--For the purposes of this part, the
 1627 term:

1628 (1) "Agricultural employer" means any person who hires or
 1629 contracts for the services of workers to perform activities
 1630 related to the production of agricultural plants or any person
 1631 who is an owner of, or responsible for, the management or
 1632 condition of an agricultural establishment that uses such
 1633 workers.

1634 (2) "Agricultural establishment" means any farm, forest,
 1635 nursery, or greenhouse.

1636 (3) "Agricultural plant" means any plant grown or
 1637 maintained for commercial or research purposes and includes, but
 1638 is not limited to, food, feed, fiber plants, trees, turfgrass,
 1639 flowers, shrubs, ornamentals, and seedlings.

1640 (4) "Department" means the Department of Agriculture and
 1641 Consumer Services.

1642 (5) "Designated representative" means any organization or
 1643 person to whom a worker gives written authorization to exercise
 1644 the right to request the agricultural pesticide information
 1645 pursuant to this part.

1646 (6) "Fact sheet" means an agricultural pesticide fact
 1647 sheet approved by the state or federal government that provides
 1648 information about the impacts of the use of an agricultural
 1649 pesticide.

1650 (7) "Material safety data sheet" means written or printed
 1651 material concerning an agricultural pesticide that sets forth
 1652 the following information:

1653 (a) The chemical name and the common name of the
 1654 agricultural pesticide.

1655 (b) The hazards or other risks in the use of the
 1656 agricultural pesticide, including:

1657 1. The potential for fire, explosions, corrosivity, and
 1658 reactivity.

1659 2. The known acute health effects and chronic health
 1660 effects of exposure to the agricultural pesticide, including

1661 those medical conditions that are generally recognized as being
 1662 aggravated by exposure to the agricultural pesticide.

1663 3. The primary routes of entry and symptoms of
 1664 overexposure.

1665 (c) The proper handling practices, necessary personal
 1666 protective equipment, and other proper or necessary safety
 1667 precautions in circumstances that involve the use of or exposure
 1668 to the agricultural pesticide, including appropriate emergency
 1669 treatment in case of overexposure.

1670 (d) The emergency procedures for spills, fire, disposal,
 1671 and first aid.

1672 (e) A description of the known specific potential health
 1673 risks posed by the agricultural pesticide, which is written in
 1674 lay terms and is intended to alert any person who reads the
 1675 information.

1676 (f) The year and month, if available, that the information
 1677 was compiled and the name, address, and emergency telephone
 1678 number of the manufacturer responsible for preparing the
 1679 information.

1680 (8) "Retaliatory action" means an action, such as
 1681 dismissal, demotion, harassment, blacklisting with other
 1682 employers, reducing pay or work hours, or taking away company
 1683 housing, that is taken by any agricultural employer against a
 1684 worker who exercises any right under the provisions of the
 1685 United States Environmental Protection Agency Worker Protection
 1686 Standard, 40 C.F.R. s. 1707(b), or this part.

1687 (9) "Trainer" means any person who is qualified to train
 1688 workers under the pesticide safety training requirements of the

1689 United States Environmental Protection Agency Worker Protection
 1690 Standard, 40 C.F.R. s. 170.130.

1691 (10) "Worker" means any person, including a farmworker or
 1692 a self-employed person, who receives any type of compensation
 1693 for employment that involves tasks relating to the production of
 1694 agricultural plants on an agricultural establishment. The term
 1695 "worker" does not include any person employed by a commercial
 1696 pesticide handling establishment to perform tasks as a crop
 1697 advisor.

1698 Section 50. Section 487.2041, Florida Statutes, is created
 1699 to read:

1700 487.2041 Enforcement of federal worker protection
 1701 regulations.--The department shall, to the extent that resources
 1702 are available, continue to operate under the United States
 1703 Environmental Protection Agency regulations regarding the
 1704 Labeling Requirement for Pesticides and Devices, 40 C.F.R. part
 1705 156, and the Worker Protection Standard, 40 C.F.R. part 170,
 1706 which the department adopted by rule during the 1995-1996 fiscal
 1707 year and published in the Florida Administrative Code. Any
 1708 provision of this part not preempted by federal law shall
 1709 continue to apply.

1710 Section 51. Section 487.2051, Florida Statutes, is created
 1711 to read:

1712 487.2051 Availability of agricultural pesticide
 1713 information to workers and medical personnel.--

1714 (1) An agricultural employer shall make available
 1715 agricultural pesticide information concerning any agricultural
 1716 pesticide to any worker:

1717 (a) Who enters an agricultural-pesticide-treated area on
1718 an agricultural establishment where:

1719 1. An agricultural pesticide has been applied within 30
1720 days of that entry; or

1721 2. A restricted-entry interval has been in effect; or

1722 (b) Who may be exposed to the agricultural pesticide
1723 during normal conditions of use or in a foreseeable emergency.

1724 (2) The agricultural pesticide information provided
1725 pursuant to subsection (1) must be in the form of a fact sheet
1726 or a material safety data sheet. The agricultural employer shall
1727 provide a written copy of the information provided pursuant to
1728 subsection (1) within 2 working days after a request for the
1729 information by a worker or a designated representative. In the
1730 case of a pesticide-related medical emergency, the agricultural
1731 employer shall provide a written copy of the information
1732 promptly upon the request of the worker, the designated
1733 representative, or medical personnel treating the worker.

1734 (3) Upon the initial purchase of a product and with the
1735 first purchase after the material safety data sheet is updated,
1736 the distributor, manufacturer, or importer of agricultural
1737 pesticides shall obtain or develop and provide each direct
1738 purchaser of an agricultural pesticide with a material safety
1739 data sheet. If the material safety data sheet or fact sheet for
1740 the agricultural pesticide is not available when the
1741 agricultural pesticide is purchased, the agricultural employer
1742 shall take appropriate and timely steps to obtain the material
1743 safety data sheet or fact sheet from the distributor, the

1744 manufacturer, the department, a federal agency, or another
1745 distribution source.

1746 (4) The department shall produce and make available to a
1747 trainer a one-page general agricultural pesticide safety sheet.
1748 The safety sheet must be in a language understandable to the
1749 worker and must include, but need not be limited to, illustrated
1750 instructions on preventing agricultural pesticide exposure and
1751 toll-free telephone numbers to the Florida Poison Control
1752 Centers. The trainer shall provide the safety sheet to the
1753 worker pursuant to the United States Environmental Protection
1754 Agency Worker Protection Standard, 40 C.F.R. s. 170.130.

1755 Section 52. Section 487.2061, Florida Statutes, is created
1756 to read:

1757 487.2061 Prohibited acts.--Any person covered by this part
1758 may not:

1759 (1) Fail to provide agricultural pesticide information as
1760 required in this part; or

1761 (2) Take retaliatory action.

1762 Section 53. Section 487.2071, Florida Statutes, is created
1763 to read:

1764 487.2071 Penalties against violators; worker relief;
1765 monitoring complaints of retaliation.--

1766 (1) Penalties set forth in this part shall be applied to
1767 any person who violates this part. A persons who violates this
1768 part is subject to federal penalties as provided in the United
1769 States Environmental Protection Agency Worker Protection
1770 Standard, 40 C.F.R. s. 170.9(b).

1771 (2) A worker who has been subject to retaliatory action
 1772 and seeks relief under this section may file a complaint with
 1773 the department.

1774 (3) In any action brought pursuant to this section that
 1775 involves retaliatory action, if the retaliatory action is
 1776 predicated on the disclosure by a worker of an illegal action,
 1777 policy, or practice of any person covered by this part to an
 1778 appropriate governmental agency, the worker may not be required
 1779 to show that the disclosure was under oath or in writing or that
 1780 the worker notified the employer in writing of the illegal
 1781 action, policy, or practice.

1782 (4) The department shall monitor all complaints of
 1783 retaliation that it receives and report its findings to the
 1784 President of the Senate and the Speaker of the House of
 1785 Representatives on or before October 1, 2008. The report shall
 1786 include the number of such complaints received, the
 1787 circumstances surrounding the complaints, and the actions taken
 1788 concerning the complaints.

1789 Section 54. Paragraph (x) of subsection (1) of section
 1790 500.03, Florida Statutes, is amended to read:

1791 500.03 Definitions; construction; applicability.--

1792 (1) For the purpose of this chapter, the term:

1793 (x) "Pesticide chemical" means any substance which, alone,
 1794 in chemical combination, or in formulation with one or more
 1795 other substances is a "pesticide" within the meaning of the
 1796 Florida Pesticide Law, part I of chapter 487, and which is used
 1797 in the production, storage, or transportation of raw
 1798 agricultural commodities.

1799 Section 55. Subsections (1) and (6) of section 570.44,
 1800 Florida Statutes, are amended to read:

1801 570.44 Division of Agricultural Environmental Services;
 1802 powers and duties.--The duties of the Division of Agricultural
 1803 Environmental Services include, but are not limited to:

1804 (1) Inspecting and drawing samples of: commercial feeds
 1805 offered for sale in this state and enforcing those provisions of
 1806 chapter 580 authorized by the department; seeds offered for sale
 1807 in this state and enforcing those provisions of chapter 578
 1808 authorized by the department; certified seed grown in this
 1809 state; fertilizers offered for sale in this state and enforcing
 1810 those provisions of chapter 576 authorized by the department;
 1811 and pesticides offered for sale in this state, and soil and
 1812 water in this state for the presence of pesticides, and
 1813 enforcing those provisions of part I of chapter 487 authorized
 1814 by the department.

1815 (6) Analyzing samples of pesticide formulations offered
 1816 for sale in this state and tank mix, soil, water, and other
 1817 environmental samples related to pesticide use investigations,
 1818 as required under part I of chapter 487.

1819 Section 56. Subsection (7) of section 440.16, Florida
 1820 Statutes, is amended to read:

1821 440.16 Compensation for death.--

1822 ~~(7) Compensation under this chapter to aliens not~~
 1823 ~~residents (or about to become nonresidents) of the United States~~
 1824 ~~or Canada shall be the same in amount as provided for residents,~~
 1825 ~~except that dependents in any foreign country shall be limited~~
 1826 ~~to surviving spouse and child or children, or if there be no~~

1827 ~~surviving spouse or child or children, to surviving father or~~
1828 ~~mother whom the employee has supported, either wholly or in~~
1829 ~~part, for the period of 1 year prior to the date of the injury,~~
1830 ~~and except that the judge of compensation claims may, at the~~
1831 ~~option of the judge of compensation claims, or upon the~~
1832 ~~application of the insurance carrier, commute all future~~
1833 ~~installments of compensation to be paid to such aliens by paying~~
1834 ~~or causing to be paid to them one half of the commuted amount of~~
1835 ~~such future installments of compensation as determined by the~~
1836 ~~judge of compensation claims, and provided further that~~
1837 ~~compensation to dependents referred to in this subsection shall~~
1838 ~~in no case exceed \$75,000.~~

1839 Section 57. The Division of Statutory Revision is
1840 requested to designate sections 487.011-487.175, Florida
1841 Statutes, as part I of chapter 487, entitled the "Florida
1842 Pesticide Law," and sections 487.2011-487.2071, Florida
1843 Statutes, as created by this act, as part II of that chapter,
1844 entitled the "Florida Agricultural Worker Safety Act."

1845 Section 58. There is hereby appropriated to the Department
1846 of Agriculture and Consumer Services the sum of \$900,000 for the
1847 purpose of funding the Future Farmers of America Leadership
1848 Training Institute in Polk County.

1849 Section 59. This act shall take effect July 1, 2004.