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## Senate Committee on Agriculture and Consumer Services

### AGRICULTURE

#### **CS/HB 1535 — Wildfires**

by General Government Appropriations Committee; Agriculture Committee; and Rep. Putnam and others (CS/SB 780 by Agriculture & Consumer Services Committee)

This bill provides greater authority to the Division of Forestry within the Department of Agriculture and Consumer Services regarding wildfire management by making clear that the division is to have primary responsibility in this area.

#### *Authority is provided for the division to:*

- Appoint center managers, forest area supervisors, firefighter rotor craft pilots, and other employees;
- Develop a training curriculum for forestry firefighters which includes basic volunteer structural fire training and at least 250 hours of wildfire training;
- Provide fire management services and emergency response assistance and to charge reasonable fees for such services;
- Allow local agencies and other entities under contract or agreement with the division to assist in firefighting operations, such as setting counter fires, removing fences and cutting fire lines;
- Allow for the use of water from public and private sources;
- Reimburse public and private entities that it engages to assist in the suppression of wildfires including their personnel and equipment, including aircraft;
- Undertake privatization alternatives for fire prevention activities such as constructing fire lines and conducting prescribed burns and if appropriate, entering into agreements with the private sector to perform these activities;
- Operate a newly created Florida Center for Wildfire and Forest Resources Management Training. The center is to serve as a place where fire and forest resource managers can obtain current knowledge, techniques, skills, and theory of their disciplines;
- Provide wildfire suppression training at the center to rural fire departments, volunteer fire departments, other local fire response units, and structural firefighters;

- Establish cooperative efforts with governmental entities, hire personnel and enter into contract arrangements with public and private bodies to assist in carrying out the training and operation of the center; and
- Create an advisory committee to review program curriculum, course content, and scheduling.

***The bill also:***

- Authorizes the Commissioner of Agriculture to declare a severe drought emergency to exist in a given area of the state and to require a written permit for all open burning in those areas to be obtained from the division or its designated agent.
- Requires the Commissioner of Agriculture to advise the Governor when a severe drought emergency continues such that wild lands have become so dry or parched as to create an extraordinary fire hazard that could endanger life or property on wild lands. The Governor may by proclamation declare an extraordinary fire hazard to exist and file the proclamation with the Department of State.
- Makes it unlawful to leave campfires or bonfires unattended or unextinguished.

***Establishes the following conditions for certified prescribed burning:***

- May only be accomplished by a certified prescribed burn manager who is present on site with a copy of the prescription from ignition to completion;
- Requires a written prescription be prepared prior to obtaining authorization from the division;
- Requires consent of the landowner or his or her designee prior to requesting authorization;
- Requires authorization to burn be obtained from the division prior to igniting the prescribed burn;
- Requires adequate firebreaks at the burn site and sufficient personnel and firefighting equipment to control the fire;
- Is considered in the public interest and does not constitute a public or private nuisance when conducted under applicable statutes and rules;
- Is considered to be a property right of the property owner.

Specifies that property owners or their agents are not liable for damage or injury caused by fire or smoke when conducting a lawful certified prescribe burn unless gross negligence is proven. Authorizes and empowers the division to prescribe burn any wild land area of the state that is in danger of having an uncontrolled fire and provides a process for landowners who object to having their property burned. Directs the Department of Education to include prescribed burning information in educational materials where appropriate.

Clarifies that an individual who intentionally sets a fire to wild land not owned by them or without consent of the owner is considered to have committed a third degree felony. Further clarification is made to provide that anyone carelessly setting fire to wild land not owned by them or without consent of the owner has committed a second degree misdemeanor.

Authorizes owners of nonconforming structures which were burned during June or July 1998 by wildfires to repair or rebuild in like-kind, unless prohibited by federal law or regulation. Authorizes the use of any equipment, including fire control equipment, purchased with Conservation and Recreation Lands (CARL) may be used for any CARL lands managed by a state agency and appropriates \$140,000 to implement the provisions of the bill, such as upgrading facilities for the newly created Florida Center for Wildfire and Forest Resources Management Training.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 40-0; House 114-0*

### **CS/HB 1143 — Aquaculture**

by Agriculture Committee and Rep. Bronson and others (CS/SB 1118 by Natural Resources Committee and Senator Laurent)

This bill clarifies the responsibilities of the various agencies involved in the regulation of aquaculture production. It addresses the oversights that resulted in 1998, when the Florida Legislature transferred regulatory authority for aquaculture to the Department of Agriculture and Consumer Services (department), with the exception of those areas required by federal law, rule or cooperative agreement to be regulated by another agency.

The bill amends ch. 370, F.S., to require the Fish and Wildlife Conservation Commission (commission) to adopt rules by March 1, 2000, to regulate the sale of farmed red drum and spotted sea trout. These rules will specifically provide for the protection of the wild resource, without restricting a certified aquaculture producer from selling farmed fish. To that extent, these rules must only require that farmed fish be kept separate from wild fish, be fed commercial feed, that farmed fish be placed in sealed containers, that these sealed containers must have the name, address, telephone number, and aquaculture certificate number of the farmer clearly and indelibly placed on the container, and that this information must accompany the fish to the ultimate point of sale. The commission is required to develop procedures, by July 1, 2000, to allow persons possessing a valid aquaculture certificate of registration to sell and transport live snook produced in private ponds or private hatcheries as brood stock to stock private ponds, or for aquarium display. The commission is authorized to issue special activity licenses for the importation, possession, and aquaculture of native and nonnative anadromous sturgeon, until best-management practices are implemented for the cultivation of anadromous sturgeon.

The bill allows for reasonable quantities of saltwater species to be taken for brood stock for aquacultural purposes. It is unlawful for any person, firm, corporation, or association to possess, attempt to possess, interfere with or remove live bait from a live bait trap or cage. Such a violation is a misdemeanor of the first degree. The act redefines a marine aquaculture producer as a person holding a certificate pursuant to s. 597.004, F.S., to produce aquaculture products. It redefines the responsibilities of the Sturgeon Production Working Group and the sturgeon production management plan.

The bill amends ch. 372, F.S., to clarify that the responsibility of the commission's Division of Freshwater Fisheries does not supersede the responsibilities of the Department of Agriculture and Consumer Services under the Florida Food Safety Act (ch. 500, F.S.) or the Florida Aquaculture Policy Act (ch. 597, F.S.). Any individual or business issued an aquaculture certificate under s. 597.004, F.S., is exempt from the requirements of ch. 372, F.S., with respect to aquaculture products authorized under such certificates. The Game and Fresh Water Fish Commission's authority to require cultured game fish that are sold to be tagged and to assess a fee of not more than five cents for each tag is eliminated.

The bill amends ch. 581, F.S., to allow an aquaculture producer who has a permit from the department to export water hyacinths to countries other than the United States. Current law only allows water hyacinths to be shipped to Canada.

The bill amends ch. 597, F.S., to redefine aquaculture producers to mean those persons engaging in the production of aquaculture products and certified under s. 597.004, F.S. The department is authorized to adopt rules that require best-management practices to be implemented by holders of aquaculture certificates of registration. It may also establish schedules for implementation of best-management practices and interim measures that can be taken prior to adopting best management practices. Interim measures may include the continuation of regulatory requirements in effect on June 30, 1998. There is a presumption of compliance with state groundwater and surface water standards if the holder of the aquaculture certificate of registration implements best-management practices that have been verified by the Department of Environmental Protection. Nothing in ch. 597, F.S., supersedes the authority under ch. 372, ch. 373, or ch. 403, F.S., to regulate alligator farms and alligator farmers. Aquaculture products, except shellfish, snook, and any fish of the genus *Micropterus*, and prohibited and restricted freshwater and marine species identified by rules of the commission may be sold by an aquaculture producer. Any person whose certificate of registration has been revoked or suspended must reapply to the department for certification. The act provides for a 5-year revocation of an aquaculture certificate when a person has been convicted of taking aquaculture species raised at a certified facility. It establishes a cultured shellfish theft reward program to be administered by the department, for the purpose of granting rewards to persons who provide

information leading to the arrest and conviction of individuals illegally possessing, harvesting, or attempting to harvest cultured shellfish.

If approved by the Governor, these provisions take effect July 1, 1999.

*Vote: Senate 39-0; House 111-0*

### **HB 1639 — Ad Val Tax Assessment/Irrigation**

by Rep. Alexander and others (SB 1582 by Senator Laurent)

This bill amends s. 193.461, F.S., by defining the income methodology approach that is to be used to assess agricultural property such as irrigation systems, including pumps and motors that are attached to the farm land. The income methodology approach must consider a part of the average yields per acre and is to have no separately assessable contributory value.

Section 193.461, F.S., provides requirements and directions to property appraisers for the assessment of agricultural lands. There are listed criteria for assessment, one of which is the income methodology approach which uses actual agricultural production on a parcel of property as a measure of the value of that particular property. Under this approach, productive agricultural property is assessed in a manner that reflects the rises and falls in the agriculture business by using a five-year moving average to establish the property's value.

The Florida Department of Revenue provides guidelines for property appraisers to utilize in calculation of property value; however, the guidelines do not specify which personal property is to be included in that calculation. As a result, there is no uniformity among the state's counties regarding treatment of certain personal property used to create agricultural revenue. Agriculture industry representatives believe this creates a form of "double taxation." Personal property, such as irrigation systems, is taxed as tangible personal property and also as a land improvement to increase production revenue.

If approved by the Governor, these provisions take effect upon becoming a law, and shall first apply to assessments effective January 1, 2000.

*Vote: Senate 40-0; House 114-0*

### **CS/HB 1855 — Agriculture and Consumer Services Department**

by General Government Appropriations Committee; Agriculture Committee; and Rep. Putnam and others (CS/SB 2066 by Agriculture & Consumer Services Committee and Senator Thomas)

This bill makes many technical changes to the regulatory programs of the Department of Agriculture and Consumer Services (department). It more significantly modifies the regulations pertaining to the following programs:

***Antifreeze Act***

Chapter 501, F.S., is amended to clarify information required on antifreeze labels. The bill establishes the registrant of each brand of antifreeze as the party responsible for the quality and quantity of the product sold, offered, or exposed for sale in this state and allows the manufacturer, the packager, or the person whose name appears on the label to register with the department. It also redefines the penalties for violations of the Antifreeze Act.

***Division of Fruit and Vegetables***

Section 570.48, F.S., is amended to authorize the division to certify and license inspectors of fruit and vegetables where no federal law requires such inspectors to be licensed and certified by the federal government. This will allow the department to continue the practice of providing “certified” inspections at processing plants, as required by state law.

***Pest Exclusion Advisory Committee***

Section 570.235, F.S., is created to form a Pest Exclusion Advisory Committee within the department. The committee is required to review and evaluate the state’s existing and future pest-exclusion, detection, and eradication programs and to issue a report to the Commissioner of Agriculture, the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2001.

***Florida Agricultural Promotional Campaign***

Chapter 571, F.S., is amended to authorize the department to ensure that only Florida agricultural or agricultural based products are marketed under the “Fresh from Florida” or “from Florida” logos. The bill provides penalties for the use, reproduction, or distribution of the logos without prior registration with the department.

***Citrus Canker***

Section 581.184, F.S., is amended to authorize the department to create a citrus canker host-free buffer area to retard the spread of citrus canker from known infected areas. In addition, the department is to develop a compensation plan for the trees that are removed. Compensation for the trees removed from the buffer area is subject to annual legislative appropriation.

### ***Legal Fences***

Section 588.011, F.S., expands the definition of a legal fence to include fences using battens, up to 60 feet apart for nonelectric and 150 feet apart for electric, if constructed of high tensile wire in accordance with the manufacturer's specifications.

### ***Livestock at Large***

Chapter 588, F.S., is amended to revise the procedures for handling livestock at large to allow sheriffs, or their designees, more flexibility in dealing with stray livestock. If the owner of the livestock cannot be located, the sheriff is authorized to sell the livestock at the nearest auction yard. The proceeds from the sale will be used to reimburse the expenses incurred in capturing, maintaining, and selling the livestock, and in attempting to locate the owner. Any money remaining after all expenses are paid will be given to the owner.

### ***Withlacoochee and Goethe State Forest***

Section 589.081, F.S., is amended to substitute generic language for individual county names to ensure that as the Withlacoochee and Goethe State Forests grow, each county will get its share of the gross receipts.

### ***Public Fairs and Expositions; Amusement Ride***

Chapter 616, F.S., is amended to provide that property held in trust by a fair association is exempt from special assessments and to clarify provisions authorizing a fair association to sell, mortgage, lease, or convey property. The bill revises certain restrictions on temporary amusement rides with respect to location of operation. It prohibits a business that has temporary amusement rides to locate within a five-mile radius of any public fair or exposition being operated by a fair association, except with the written consent of the affected fair association and deletes a license tax imposed on such rides. A fair association is required to send a copy of its permit application to each fair association located within 50 miles of the site of the proposed fair or exposition at the same time it sends an application to the department. The department is allowed to determine whether any proposed fair or exposition will compete with another for the same name, dates of operation, or market. Preference will be given to established fair associations when issuing permits.

The bill revises safety standards for amusement rides. It requires an owner to request inspection and permitting of an amusement ride within 60 days after an application is filed with the department. The department is required to inspect and permit the amusement ride within 60 days after the date the affidavit of compliance is executed. The bill deletes a

requirement that amusement ride owners submit the manufacturer's current recommended operating instructions and other documents with an application for an annual permit. It directs the owner to provide this information upon request of the department, at no cost to the department. It authorizes the department to establish fees by rule to cover the costs and expenditures associated with the Bureau of Fair Rides Inspection, including all direct costs and all indirect costs. If there is not sufficient general revenue appropriated by the Legislature, the industry must pay for the remaining cost of the program. Signs must be prominently displayed at the patron entrance of each amusement ride which advise or warn patrons of age restrictions, size restrictions, health restrictions, weight limitations, and any other special consideration or use restrictions required or recommended for the amusement ride by the manufacturer. Bungy catapulting or reverse bungy jumping is prohibited.

The bill exempts the Florida State Fair Authority from special assessments and voids any special assessments imposed upon a fair association or state fair before the effective date of this act if not paid by the effective date of this act.

### ***Abuse of Horses or Cattle***

Chapter 828, F.S., is amended to prohibit a person to intentionally trip, fell, rope, or lasso the legs of a horse by any means for the purpose of wagering for entertainment or sport. The bill also provides relief from prosecution for prohibited acts relating to killing or aggravated abuse of registered breed horses or cattle resulting from weather conditions or other acts of God, providing the person is otherwise in compliance.

These provisions became law upon approval by the Governor on July 1, 1999.

*Vote: Senate 40-0; House 118-0*

## **CONSUMER SERVICES**

### **HB 1061 — Consumer Protection**

by Business Regulations & Consumer Affairs Committee and Rep. Ogles and others  
(CS/SB 1712 by Regulated Industries Committee and Senator Meek)

The Division of Consumer Services, within the Department of Agriculture and Consumer Services (department), acts as a clearinghouse for consumer complaints, consumer complaint referrals, and consumer complaint mediation. House Bill 1061 enhances and clarifies the laws relating to information disclosure and provides remedies for enforcement for the following consumer protection program areas:

### ***Solicitation of Contributions***

Chapter 496, F.S., is amended to exclude funds which are transferred between charitable organizations from the definition of “contribution” as it relates to the solicitation of contributions and fees of the department. Solicitors are required to disclose certain criminal histories, and anyone with felony and other specific convictions during the last ten years is prohibited from soliciting in Florida.

### ***Commercial Telephone Solicitation***

Chapter 501, F.S., is amended to prohibit a commercial telephone seller or salesperson to make a call before 8:00 a.m. or after 9:00 p.m. local time at the called person’s location. In addition, it is unlawful for such person to take any action to block the telemarketer’s name or telephone number from caller I.D.

### ***Pawnbrokers***

Chapter 539, F.S., is amended to clarify that a pawnbroker license expires after one year and must be renewed annually for a fee of \$300. The act clarifies what criminal activities relating to pawnbroking would result in the denial of licensure, such as theft or dealing in stolen property, among others. The following documentation relating to an applicant’s net worth must be submitted with an application for licensure:

- A current financial statement prepared by a certified public accountant; or
- A documented affidavit attesting the applicant’s net worth to be at least \$50,000; or
- If a corporation, the most recent tax return.

An applicant for a pawnbroker license must submit a complete set of fingerprints, \$300 for the first year’s license fee, and the actual cost to the department for fingerprint analysis. The Division of Consumer Services must submit the fingerprints to the Department of Law Enforcement for processing. The Department of Law Enforcement would then forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The act provides that a pawnbroker license may be suspended or revoked if a licensee no longer meets the eligibility requirements to hold a pawnbroker’s license.

### ***Business Opportunities***

Chapter 559, F.S., is amended to require a seller of a business opportunity to disclose to a prospective purchaser any criminal background activity, regardless of adjudication, which has occurred within the last ten years rather than the current specification of seven years. The act adds theft and larceny to the list of offenses to be disclosed. A seller of a business opportunity is required to disclose, as a part of the required annual disclosure document,

identity information relating to officers and employees who are involved with the seller's business activities in Florida. This information would include name, home and business address, telephone number, driver's license number, the state in which the driver's license is issued, and birth date.

### ***Motor Vehicle Repair***

Chapter 559, F.S., is amended to revise the definition of "motor vehicle" to specify that it does not include off-road construction and earth moving type equipment. The department is required to post a prominent "closed by Order of the Department" sign on any motor vehicle repair shop that has had its registration suspended or revoked or that has been determined to be operating without a registration. The act provides a second-degree misdemeanor penalty for defacing or removing such a sign, for operating without a registration, or for operating with a revoked or suspended registration. The department is authorized to impose administrative sanctions for violations.

### ***Annuity Agreements***

Chapter 627, F.S., is amended to prescribe additional conditions under which a subunit of an organized domestic or foreign nonstock corporation or an unincorporated charitable trust may enter into annuity agreements.

### ***Assistive Technology Devices***

Chapter 427, F.S., is amended to expand the definition of assistive technology devices to include personal transfer systems and devices to enable individuals with severe speech disabilities to in effect speak. A definition is created for Assistive Technology Device Warranty Act rights period, which means the period ending one year after first delivery of the device to the consumer or the manufacturer's express written warranty, whichever is longer. The definition of assistive technology dealer is clarified to mean a business entity that is primarily engaged in the selling or leasing of assistive technology devices.

A manufacturer is required to conform a defective device to the warranty if the consumer reports the problem within the Assistive Technology Device Warranty Act rights period, even if the repairs are made after expiration. Such repairs must be made at no cost to the consumer. Each manufacturer or dealer must provide its consumers with an address and telephone number in the written warranty or owner's manual. The manufacturer is required to provide the dealer, and the dealer to provide the consumer with a written statement explaining the consumer's rights under this chapter.

The department is authorized to accept and investigate a consumer's dispute with an assistive technology dealer or lessee. Additionally, dealers are required to register, pay

fees and follow procedures of the department. The department is authorized to enter a business to ensure that it is in compliance. It may also deny, revoke or suspend a registration if the business is not in compliance and may impose penalties. The department, state attorney or a consumer is authorized to bring civil action against any violator. Guidelines are provided for the department to use in spending money generated from fees to assist investigators, conduct sensitivity training for department staff, and to increase consumer awareness. An appropriation of \$450,000 is provided for six full-time positions to administer the act.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 40-0; House 117-1*

**CS/SB 672 — Deceptive Trade Practices/Print Ads**

by Agriculture & Consumer Services Committee and Senator Holzendorf

This bill creates s. 501.97, F.S., prohibiting a person from using a fictitious name in any type of print advertisement with an intent to misrepresent the geographic origin or location of a business. Violators are guilty of a deceptive and unfair trade practice and subject to any and all penalties under ch. 501, part II, F.S. It also clarifies that this bill is not intended to abrogate or modify s. 865.09, F.S., relating to the Fictitious Name Act. Individuals who are in accordance with the Fictitious Name Act, are not in violation of this bill.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 38-0; House 116-0*

