
**Senate Committee on
Agriculture and Consumer Services**

AGRICULTURE

CS/CS/HB 719 — Agriculture Crops/Damage or Destruction

by Competitive Commerce Council; Agriculture & Consumer Affairs Committee; and Rep. Stansel and others (CS/SB 1528 by Judiciary Committee and Senators Geller, Mitchell, Bronson, and Peaden)

Allows a private or commercial agricultural grower or producer, whose crop has been willfully and knowingly destroyed by another person, to bring action for damages up to twice the market value of the crop. Over the past few years, opponents of agricultural biotechnology have resorted to the destruction of private farm lands and field trials conducted by state universities and colleges as a means of protesting the technology. Applies to any agricultural field crop grown for personal or commercial purposes or for testing or research in a product development program conducted in conjunction or coordination with a private research facility, a university, or any federal, state, or local government agency. Provides considerations and limits in award of damages and provides for court costs and attorney's fees. If the property trespassed upon is an agricultural site for testing or research purposes, and is legally posted as such, the offender commits a felony of the third degree, punishable by a term of imprisonment not exceeding three years, a fine not to exceed \$5,000, or in the case of a habitual offender, a term of imprisonment not exceeding ten years.

If approved by the Governor, these provisions take effect October 1, 2001.

Vote: Senate 40-0; House 118-0

CS/SB 1922 — Agriculture and Consumer Services Department

by Agriculture & Consumer Services Committee and Senator Geller

This bill contains a number of major provisions relating to Florida's agricultural industry and other related issues. It makes the following changes in the statutes to the functions of the Department of Agriculture and Consumer Services (department):

Department of Agriculture and Consumer Services

- Waives civil liability to the Division of Forestry when equipment, vehicles, or supplies are leased to state, county, or local government entities having fire/rescue responsibilities.
- Authorizes the department and the Department of Environmental Protection to adopt rules governing the distribution of funds for implementation of Best Management Practices with regard to agricultural nonpoint water quality sources.

- Clarifies that farmers are allowed to move certain equipment and supplies from one location to another in a truck defined as a “goat.”
- Clarifies that commercial motor vehicles transporting unprocessed logs or pulpwood must attach a minimum of one amber strobe light on the rear of any load which extends more than four feet beyond the body or the bed of the vehicle.
- Eliminates requirements for the department to report on the use of compost by state agencies.
- Authorizes the department to verify data supporting label claims of termite prevention or protection on pesticide products registered in the state. Authorizes the department to adopt rules specifying performance standards and acceptable test conditions for reviewing data submitted in support of an efficacy claim.
- Authorizes the department to raise the fee cap for a food permit from \$350 to \$500. Allows the department to recover the cost of re-inspection of food establishments to verify compliance.
- Mandates that licenses for frozen dessert plants are not transferable and are subject to suspension or revocation.
- Authorizes, in an emergency situation the sale of reconstituted pasteurized milk products that are appropriately labeled, as well as revises references relating to the pasteurized milk ordinance and milk sanitation.
- Authorizes the department to investigate and bring action under Chapter 501, F.S., on behalf of consumers for violation of the laws relating to consumer protection.
- Allows the department to repair or build structures, from existing appropriations, as long as the costs do not exceed \$250,000.
- Repeals obsolete provisions concerning the Florida Organic Farming and Food Act, timber and lumber, and Appaloosa horse racing.
- Clarifies that seafood and aquacultural crops are eligible for Agricultural Economic Development Program disaster loans.
- Increases the membership of the Animal Industry Technical Council to include representation for emerging animal industries, such as alligators and ostriches.
- Revises commercial feed laws.

- Provides requirements with respect to veterinarians who may inspect animals for disease. Authorizes the department to suspend or revoke veterinary accreditation for certain unauthorized or unethical practices.
- Revises vaccination requirements for calves.
- Provides that the first state forest acquired in Baker County is to be named after John M. Bethea who was Florida's fourth state forester.
- Exempts certain cars or vehicles from amusement ride safety standards.
- Provides for the development of acceptable humane euthanasia methods for killing livestock.

Special Risk Membership

Revises the criteria that must be met by employees in order to be designated as a special risk member within the Florida Retirement System. The member must be employed as a firefighter by a local government or an agency of state government with firefighting responsibilities. Includes fixed-wing aircraft pilots employed by the Division of Forestry of the Department of Agriculture and Consumer Services whose duties include aerial firefighting surveillance.

Assessment of Agricultural Property

Provides that containment structures, used in the disposal, storage, and utilization of waste, located on poultry farms and dairy farms shall be assessed by the income methodology approach, meaning that the structures shall be considered part of the average yields per acre and have no separate assessable value. Animal waste is a potential source of nitrates, which can contaminate surface water and groundwater. In 1996, the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) and the Suwannee River Water Management District (SRWMD) cooperated in designing and implementing best management practices (BMP) to improve animal waste management at dairy farms and poultry farms. The BMP's that have been implemented include construction of containment structures used in the disposal, storage, and utilization of waste. According to information provided by SRWMD, the cost of the containment structures can run as high as \$200,000 for an average dairy farm and \$60,000 for an average poultry farm. NRCS and SRWMD have provided some, but not all of the funds, needed to build these structures.

Article VII, section 4, of the State Constitution states that regulations shall be prescribed to secure a just valuation of all property for ad valorem taxation and lists several exceptions. Agricultural land is one of the exceptions and it is to be classified and assessed solely on the basis of character or use. Section 193.461(6), F.S., sets forth the use factors to be considered and requires the appraiser to rely on 5-year moving average data when utilizing the income methodology approach in assessing agricultural property. In assessing land that has been

classified as “agricultural use,” the county property appraisers apply a standard approach that is used to value income producing properties. This legislation will provide appraisers with direction as to how to treat containment structures to achieve uniformity of assessments for ad valorem tax purposes throughout the state.

Damage or Destruction of Agricultural Crops

Allows a private or commercial agricultural grower or producer, whose crop has been willfully and knowingly destroyed by another person, to bring action for damages up to twice the market value of the crop. Over the past few years, opponents of agricultural biotechnology have resorted to the destruction of private farm lands and field trials conducted by state universities and colleges as a means of protesting the technology. Applies to any agricultural field crop grown for personal or commercial purposes or for testing or research in a product development program conducted in conjunction or coordination with a private research facility, a university, or any federal, state, or local government agency. Provides considerations and limits in award of damages and provides for court costs and attorney’s fees. If the property trespassed upon is an agricultural site for testing or research purposes, and is legally posted as such, the offender commits a felony of the third degree, punishable by a term of imprisonment not exceeding three years, a fine not to exceed \$5,000, or in the case of a habitual offender, a term of imprisonment not exceeding ten years.

Agricultural Water Conservation

Directs the Department of Agriculture and Consumer Services to establish an agricultural water conservation program that includes:

- A cost share program, coordinated where appropriate with the United States Department of Agriculture and other federal, state, regional, and local agencies, for irrigation system retrofit and application of mobile irrigation laboratory evaluations for water conservation.
- The development and implementation of voluntary interim measures or best management practices which provide for increased efficiencies in the use and management of water for agricultural production.
- Assistance to the water management districts in the development and implementation of a consistent methodology for the efficient allocation of water for agricultural irrigation.

Official Citrus Archive

Designates The Florida Citrus Archives, located at Florida Southern College and dedicated to Thomas B. Mack, as the official citrus archive of Florida. Florida Southern College in Lakeland has accumulated and maintains an extensive collection of citrus related materials. The collection is called The Florida Citrus Archives and is dedicated to Thomas B. Mack, the person most responsible for the success of the project. Florida Citrus Mutual, an association representing

growers statewide, maintains that The Florida Citrus Archives are the largest collection of its kind by far and that they function now as the unofficial statewide citrus archives.

Florida Department of Citrus

Deletes the requirement for USDA inspection of grade standards in registered citrus processing plants. The processing plants and their retail customers currently have inspection standards in place. Allows the Department of Citrus to collect money for a non-governmental entity or any of its related subsidiaries located in Florida. Money collected can be dues, special assessments, or any other funds the bylaws of the nonprofit allows to be collected from its members.

General Requirements for High School Graduation

Authorizes Agriscience Foundations I, the core course in secondary Agriscience and Natural Resource programs, to count as one of the science credits that are required for a student to graduate from a Florida high school. A student must successfully complete a minimum of 24 academic credits, three of which must be in science.

Residential Citrus Canker Compensation Program

Authorizes the Department of Agriculture and Consumer Services to compensate eligible homeowners whose residential citrus trees have been removed under a citrus canker eradication program. Up to \$500,000 of federal and state funds appropriated by law may be used to administer the residential citrus canker compensation program. Defines eligible homeowners as those of record as of the effective date of the bill who have had one or more citrus trees removed from their property since January 1, 1995, as part of the canker eradication program and have not received commercial compensation from the United States Department of Agriculture. Sets compensation at \$100 per tree, subject to the availability of funds. The bill does not limit the amount of compensation paid by another entity or pursuant to court order for the removal of citrus trees as part of a citrus canker eradication program.

Rural and Family Lands Protection Act

Creates the “Rural and Family Lands Protection Act” for the purpose of limiting subdivision and conversion of ranch and farm lands. Authorizes the department, on behalf of the Board of Trustees of the Internal Improvement Trust Fund, to acquire interests and enter into agreements for the following public purposes:

- Promotion and improvement of wildlife habitat,
- Protection and enhancement of water bodies, aquifer recharge areas, wetlands, and watersheds,
- Perpetuation of open space on lands with significant natural areas, or
- Protection of agricultural lands threatened by conversion into other uses.

To achieve the purposes of this act, beginning no earlier than July 1, 2002, and every year thereafter, the department may accept applications for project proposals. Any expenditures to implement the program prior to July 1, 2002, are prohibited. Four types of interest and agreements may be negotiated by the department:

1. Conservation easements pursuant to s. 704.06, F.S.
2. Rural lands protection easements.
3. Resource conservation agreements.
4. Agricultural protection agreements.

Requires that, concurrent with entering into an agricultural protection agreement, the landowner must grant to the state an option to purchase a conservation easement or rural land protection easement at the end of the agreement based on the value of the property at the time the agreement is entered into plus a reasonable escalator, multiplied by the number of full calendar years from the date of the commencement of the agreement. Upon mutual consent and agreement of the parties, a landowner may enter into a perpetual easement at any time during the term of an agricultural protection agreement. If the landowner sells the fee title, the buyer shall become the successor interest to the agriculture protection agreement and option.

Directs the department, in consultation with the Department of Environmental Protection, Florida Wildlife Conservation Commission, and the water management districts to conduct a study to determine and prioritize needs for implementing the act. The needs assessment shall locate areas of the state where existing privately-owned ranch and timber lands containing resources of the type identified can be preserved or protected through implementation of the Rural and Family Lands Protection Act.

If approved by the Governor, these provisions take effect July 1, 2001

Vote: Senate 39-0; House 115-3

CS/SB 2042 — Pest Control Operators

by Agriculture & Consumer Services Committee and Senator Bronson

This bill contains a number of provisions from CS/SB 2042 and CS/SB 1052, relating to regulation of the pest control industry by the Department of Agriculture and Consumer Services (department).

The bill revises pest control regulations in order to improve pre-construction home termite treatments. Between 33 and 50 percent of pre-construction termite prevention treatments observed by the Department of Agriculture and Consumer Services from 1997 to 1999 were not in compliance with existing laws. The bill provides the department with the authority to establish, by rule, a written authorization for pre-construction termite treatments for pest control licensees. This written authorization could be suspended or revoked separately from the business license granted under ch. 482, F.S. This provision will significantly improve the ability of the

department to enforce the requirements of this chapter for proper pre-treatments and thereby improve the protection of Florida's citizens against improper and ineffective termite treatments. The bill establishes requirements for standardized training of pest control technicians and authorizes stop-work orders on structural fumigations.

This bill also provides additional exceptions to the state's preemption of pest-control regulation and ensures that the pest control inspections and treatments will be performed in accordance with current state law. It:

- Requires, for multi-complex dwellings in excess of 10 units, annual termite inspections for termite activity or damage, including Formosan termites, performed by a person licensed under ch. 482, F.S.;
- Requires pest control treatments of structures that have termite activity or damage to be performed by a person licensed under ch. 482, F.S.; and
- Requires property owners or other persons to obtain inspections or pest control treatments performed by a person licensed under ch. 482, F.S.

The bill requires an ordinance by a local government or other political subdivision which requires an annual inspection or pest control treatment to conform to current law.

If approved by the Governor, these provisions take effect July 1, 2001

Vote: Senate 39-0; House 119-0

CONSUMER SERVICES

CS/CS/SB 784 — Consumer Protection

by Agriculture & Consumer Services Committee; Commerce & Economic Opportunities Committee; and Senators Geller, Crist, and Wasserman Schultz

This bill revises several consumer-protection programs under the regulatory authority of the Division of Consumer Services within the Department of Agriculture and Consumer Services (department):

Assistive Technology Device Warranty Act

Repeals the Assistive Technology Device Warranty Act. Repeal of the Act will delete duplicative provisions within two acts. The 1999 Legislature amended the Assistive Technology Device Warranty Act adding a consumer protection program to the existing minimum mandatory warranty law. Also in 1999, the Legislature passed the Home Medical Equipment Providers Act, which is a complete professional licensure act. The Home Medical Equipment Providers object

to having to pay to register as dealers under the Warranty Act in addition to licensure. Also revises the definition of “home medical equipment” to include reference to motor vehicle adaptive transportation aids.

Solicitation of Funds by Charitable Organizations

Requires solicitations to include the solicitor’s registration number, the percentage of contributions kept by the solicitor, and the percentage of funds received by the charity.

Health Studios

Requires health studios to pay required refunds within 30 days after canceling a contract for future health-studio services under certain circumstances. Requires refunds to be paid within 30 days in cases where the health studio goes out of business or moves its facilities more than five driving miles away and in cases where the consumer dies or becomes physically unable to avail him or herself of a substantial portion of the health-studio services. Allows any person to be prosecuted for knowingly making false representations to the department with the intent of obtaining an exemption for a health studio from any of the security requirements in current law. These violations are punished as a third-degree felony. Thus, it expands the category of those who are subject to criminal penalties to all persons from a health studio owner or, in the case of corporate ownership, any officer of the corporation, or any manager of a health studio or the health studio’s business location.

Pawnbrokers

Prohibits a pawnbroker to knowingly accept or receive any stolen property in a pawn or purchase transaction. Thus, the license of a pawnbroker who knowingly accepts or receives stolen property would be subject to suspension or revocation. In addition to other criminal penalties for dealing in stolen property, pawnbrokers who willfully accept or receive any stolen property in a pawn or purchase transaction in violation of the Florida Pawnbroking Act would be subject to criminal penalties, punished under the act as a first-degree misdemeanor.

Sellers of Business Opportunities

Removes the requirement that any guarantee from the seller of a business opportunity must be *in writing* to subject the seller to the Sale of Business Opportunities Act (act). Thus, verbal guarantees that a seller will refund monies paid if the individual does not receive income in excess of the charges for the business opportunity would be subject to regulation. Specifically, all sellers making these guarantees would be required to post a \$50,000 security, file disclosure statements with the department, and comply with all other provisions of the act. Amends the security requirements in current law to allow sellers of business opportunities to post certificates of deposit in lieu of the \$50,000 bond, and removes authority for a seller to post a trust account as security. These provisions conform the security requirements for sellers of business opportunities to the security requirements for other programs implemented by the department,

including, for example, sellers of travel and health studios. Broadens the scope of civil actions that may be brought against a seller of a business opportunity to include fraud, misrepresentation, and financial failure. Requires that consumer complaints be brought against the \$50,000 security as administrative proceedings before the department instead of before a circuit court. Establishes a presumption that the amount of a court judgment is prima facie evidence of the value of an administrative claim. Requires disclosure statements to inform consumers of the number of persons who purchased the business opportunity in the past three years and to provide contact information for 10 previous purchasers. Subjects securities to administrative, rather than judicial, determination and revises security requirements. Subjects sellers of business opportunities to administrative and criminal penalties for failure to deliver goods and services as promised in the contract. Limits the exemption for sales and marketing programs connected to trademark or service marks to those instances in which the seller requires use of the mark.

Motor Vehicle Repair Shops

Removes the definition of the term “minor repair services” and consequently removes the distinction between motor vehicle repair shops performing minor versus major repairs. Thus, repair shops currently registered with the department as minor repair shops will not be eligible for the lesser \$25 registration fee. These repair shops will be required to register based upon the number of employees and will pay a registration fee between \$50 and \$300: one to five employees (\$50), six to 10 employees (\$150), or 11 or more employees (\$300). Removes obsolete provisions permitting a minor repair shop that received a certificate of exemption from the department before July 1, 1997, to remain exempt from registration until the certificate expires. Removes the requirement that one of the eight industry members serving on the Motor Vehicle Repair Advisory Council be engaged solely in minor repair service. Removes obsolete provisions that established staggered four-year terms for the initial council members and required these initial members to be registered with the department by October 1, 1993, in order to serve on the council.

Requires motor vehicle repair shops to submit copies of their estimate and invoice forms to the department as part of the registration process. Requires motor vehicle repair shops to detail the estimated cost of repair, including charges for shop supplies, hazardous waste, or other waste removal, when providing a written estimate or repair work that will exceed \$100. Thus, repair shops will not be permitted to include additional charges in their written estimates, ranging from 3 to 10 percent of the estimated cost of repair, in order to account for these other costs. It will remain unlawful for a motor vehicle repair shop to charge more than the written estimate plus \$10 or 10 percent, whichever is greater, but not to exceed \$50, unless the motor vehicle repair shop has obtained the customer’s permission to exceed the written estimate. Allows the department to revoke the registration of a motor vehicle repair shop for failure to meet the requirements of the act or as the result of certain civil, criminal, or administrative adjudications.

If approved by the Governor, these provisions take effect October 1, 2001

Vote: Senate 38-2; House 112-0

