

## ENROLLED

CS/CS/HB 7215, Engrossed 2

2011 Legislature

1 A bill to be entitled  
2 An act relating to the Department of Agriculture and  
3 Consumer Services; amending s. 20.14, F.S.; deleting a  
4 provision establishing the Division of Dairy within the  
5 department; amending s. 193.461, F.S.; redefining the term  
6 "agricultural purposes" as it relates to the assessment of  
7 land classified as agricultural by the property appraiser;  
8 amending s. 215.981, F.S.; exempting certain direct-  
9 support organizations and citizen support organizations  
10 for the department from obtaining an independent audit;  
11 requiring the department to establish accounting and  
12 financial management guidelines for such organizations and  
13 annually review the operations and finances of a selected  
14 number of such organizations; amending s. 253.02, F.S.;  
15 providing for the grantee of easements for electrical  
16 transmission to pay the lead manager of the state-owned  
17 lands or, when there is no lead manager, the Department of  
18 Environmental Protection if suitable replacement uplands  
19 cannot be identified; amending s. 261.04, F.S.; deleting  
20 provisions requiring the reimbursement of members of the  
21 Off-Highway Vehicle Recreation Advisory Committee for per  
22 diem and travel expenses; amending s. 381.0014, F.S., to  
23 conform to changes made by the act; amending s. 482.051,  
24 F.S.; providing additional methods for pest control  
25 licensees to give certain emergency notice to the  
26 Department of Agriculture and Consumer Services before  
27 performing general fumigation; amending s. 482.071, F.S.;  
28 revising the minimum bodily injury and property damage

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29 insurance coverage required for pest control businesses;  
30 creating s. 482.072, F.S.; providing for licensure by the  
31 department of pest control customer contact centers;  
32 providing application requirements; providing for fees,  
33 licensure renewal, licensure expiration, transfer of  
34 licenses, and penalties; creating s. 482.157, F.S.;  
35 providing for limited certification of commercial wildlife  
36 trappers; providing requirements for certification,  
37 examination, and fees; limiting the scope of work  
38 permitted by certificateholders; amending s. 482.183,  
39 F.S.; providing that licensees and certificateholders who  
40 practice accepted pest control methods are immune from  
41 liability for violating laws prohibiting cruelty to  
42 animals; providing for applicability; amending s. 482.226,  
43 F.S.; revising the minimum financial responsibility  
44 requirements for licensees that perform wood-destroying  
45 organism inspections; amending s. 482.243, F.S.; deleting  
46 provisions relating to the reimbursement of members of the  
47 Pest Control Enforcement Advisory Council for expenses;  
48 amending s. 487.041, F.S.; providing that registration,  
49 supplemental, and late fees related to the registration of  
50 pesticide brands with the department are nonrefundable;  
51 providing requirements for label revisions of pesticide  
52 brands; providing requirements for label revisions that  
53 must be reviewed by the United States Environmental  
54 Protection Agency; requiring payments of pesticide  
55 registration fees to be submitted electronically by a date  
56 certain; amending s. 487.0615, F.S.; deleting provisions

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57 requiring the reimbursement of members of the Pesticide  
58 Review Council for per diem and travel expenses; amending  
59 s. 500.70, F.S.; requiring certain persons who produce,  
60 harvest, pack, or repack tomatoes to register each  
61 location of a tomato farm, tomato greenhouse, tomato  
62 packinghouse, or tomato repacker by a specified date;  
63 authorizing the department to set a registration fee;  
64 requiring that funds collected be deposited into the  
65 General Inspection Trust Fund; revising the title of  
66 chapter 502, F.S.; amending s. 502.012, F.S.; defining  
67 terms related to the department's regulation of frozen  
68 desserts; amending s. 502.013, F.S.; revising legislative  
69 purpose and intent, to conform; amending s. 502.014, F.S.;  
70 revising the department's powers and duties; authorizing  
71 the department to administer and enforce regulations of  
72 frozen desserts and frozen dessert mix; revising the  
73 federal publication upon which certain milk sanitation  
74 ratings are based; authorizing the department to adopt  
75 rules; repealing s. 502.032, F.S., relating to milkfat  
76 tester's permits and permit fees; amending s. 502.053,  
77 F.S.; providing permitting and licensing requirements and  
78 imposing permit and license fees for frozen dessert plants  
79 and milkfat testers; providing certain reporting  
80 requirements for frozen dessert plant permitholders;  
81 providing certain recordkeeping requirements for licensed  
82 milkfat testers; providing an exemption; amending s.  
83 502.054, F.S.; requiring the department to inspect certain  
84 frozen desserts and frozen dessert plants; amending s.

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85 | 502.091, F.S.; authorizing sales of certain ice cream and  
86 | frozen desserts; amending s. 502.121, F.S.; restricting  
87 | the construction or extensive alteration of frozen dessert  
88 | plants; amending ss. 502.181 and 502.231, F.S.;  
89 | prohibiting certain acts related to the regulation of  
90 | frozen desserts; providing penalties; amending s. 502.232,  
91 | F.S.; preempting to the state the local regulation of  
92 | frozen desserts at wholesale; repealing chapter 503, F.S.,  
93 | relating to the state's regulation of frozen desserts,  
94 | enforcement and penalties for violations of such  
95 | regulations, licensure of frozen dessert plants, and  
96 | preemption of municipal and county regulations of frozen  
97 | desserts; amending ss. 527.22 and 559.9221, F.S.; deleting  
98 | provisions authorizing the reimbursement of members of the  
99 | Florida Propane Gas Education, Safety, and Research  
100 | Council and the Motor Vehicle Repair Advisory Council for  
101 | per diem and travel expenses; amending ss. 570.07 and  
102 | 576.181, F.S.; requiring the department to regulate the  
103 | sale, composition, packaging, labeling, wholesale and  
104 | retail distribution, and formulation of fertilizer;  
105 | preempting such regulation of fertilizer to the state;  
106 | exempting certain ordinances adopted before a specified  
107 | date from such preemption; authorizing county and  
108 | municipal governments to enforce such ordinances exempt  
109 | from preemption; revising the department's powers and  
110 | duties relating to pollution control and the prevention of  
111 | wildfires; conforming provisions; amending s. 570.0705,  
112 | F.S.; deleting provisions requiring the reimbursement for

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113 per diem and travel expenses of members of certain ad hoc  
 114 advisory committees appointed by the Commissioner of  
 115 Agriculture; amending s. 570.074, F.S.; renaming the  
 116 Office of Water Coordination and revising its policy  
 117 jurisdiction; amending s. 570.18, F.S., to conform;  
 118 amending s. 570.23, F.S.; deleting provisions requiring  
 119 the reimbursement of members of the State Agricultural  
 120 Advisory Council for per diem and travel expenses;  
 121 amending s. 570.29, F.S.; deleting a provision  
 122 establishing the Division of Dairy Industry within the  
 123 department; amending ss. 570.38 and 570.382, F.S.;

124 deleting provisions requiring the reimbursement of members  
 125 of the Animal Industry Technical Council and the Arabian  
 126 Horse Council for per diem and travel expenses; repealing  
 127 ss. 570.40 and 570.41, F.S., relating to the powers and  
 128 duties of the Division of Dairy within the department and  
 129 the qualifications and duties of the division's director;  
 130 amending s. 570.42, F.S.; deleting provisions requiring  
 131 the reimbursement of members of the Dairy Industry  
 132 Technical Council for per diem and travel expenses;  
 133 amending s. 570.50, F.S.; conforming provisions; requiring  
 134 the Division of Food Safety within the department to  
 135 inspect certain dairy farms and plants, perform certain  
 136 analyses and tests, and enforce certain rules and  
 137 provisions of law; amending s. 570.51, F.S., to conform;  
 138 amending s. 570.543, F.S.; deleting provisions requiring  
 139 the reimbursement of members of the Florida Consumers'  
 140 Council for per diem and travel expenses; amending s.

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141 570.954, F.S.; removing the requirement that the  
142 department coordinate with and solicit the expertise of  
143 the state energy office when developing the farm-to-fuel  
144 initiative; amending ss. 571.28, 573.112, 576.091,  
145 580.151, 581.186, and 586.161, F.S.; deleting provisions  
146 requiring the reimbursement of members of the Florida  
147 Agricultural Promotional Campaign Advisory Council,  
148 certain ad hoc advisory councils appointed to advise the  
149 department concerning the issuance of marketing orders,  
150 the Fertilizer Technical Council, the Commercial Feed  
151 Technical Council, the Endangered Plant Advisory Council,  
152 and the Honeybee Technical Council for per diem and travel  
153 expenses; amending s. 582.30, F.S.; authorizing the  
154 Commissioner of Agriculture to certify the dissolution or  
155 discontinuance of a soil and water conservation district  
156 without the review or recommendation of the Soil and Water  
157 Conservation Council under certain circumstances; amending  
158 s. 590.015, F.S.; revising and providing definitions for  
159 purposes of forest protection; amending s. 590.02, F.S.;  
160 authorizing forest operations administrators to be  
161 certified as forestry firefighters; granting the  
162 department certain exclusive authority over the Florida  
163 Building Code; authorizing the department to retain,  
164 transfer, warehouse, bid, destroy, scrap, or dispose of  
165 certain surplus equipment and vehicles; authorizing the  
166 department to retain any moneys received from the  
167 disposition of certain state-owned equipment and vehicles;  
168 providing that moneys received may be used for the

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169 acquisition of certain exchange and surplus equipment and  
170 all necessary operating expenditures related to the  
171 equipment; requiring the department to maintain records of  
172 the accounts into which the money is deposited; granting  
173 the department exclusive authority to require and issue  
174 authorizations for broadcast burning, agricultural pile  
175 burning, and silvicultural pile burning; preempting other  
176 governmental entities from adopting laws, regulations,  
177 rules, or policies pertaining to broadcast burning,  
178 agricultural pile burning, or silvicultural pile burning  
179 unless an emergency order has been declared; authorizing  
180 the department to delegate its authority to a county or  
181 municipality to issue authorizations for the burning of  
182 yard trash and debris from land-clearing operations;  
183 amending s. 590.125, F.S.; revising and providing  
184 definitions relating to open burning authorizations;  
185 specifying purposes of certified prescribed burning;  
186 requiring the division's authorization for certified pile  
187 burning; providing pile burning requirements; limiting the  
188 liability of property owners or agents engaged in pile  
189 burning; providing for the certification of pile burners;  
190 providing penalties for violations by certified pile  
191 burners; requiring the division to adopt rules to regulate  
192 certified pile burning; revising notice requirements for  
193 wildfire hazard reduction treatments; requiring division  
194 approval of local government open burning authorization  
195 programs; providing program requirements; authorizing the  
196 division to resume administration of a local government's

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197 program under certain circumstances; providing penalties  
198 for violations of local government open burning  
199 requirements; amending s. 590.14, F.S.; authorizing a  
200 division employee to issue a notice of violation for any  
201 division rule; authorizing the division to impose an  
202 administrative fine for a violation of any division rule;  
203 providing penalties for certain violations; providing  
204 legislative intent; amending ss. 597.005 and 599.002,  
205 F.S.; deleting provisions requiring the reimbursement of  
206 members of the Aquaculture Review Council and the  
207 Viticulture Advisory Council for per diem and travel  
208 expenses; amending s. 616.17, F.S.; providing certain  
209 authorities or fair associations with immunity from  
210 liability for damages resulting from exhibits and  
211 concessions at public fairs; providing exceptions;  
212 amending s. 616.252, F.S.; providing for the appointment  
213 and term of a nonvoting youth member of the Florida State  
214 Fair Authority; deleting provisions requiring staggered  
215 terms; prohibiting the reimbursement of members of the  
216 Florida State Fair Authority for per diem and travel  
217 expenses; excluding the youth member from compensation for  
218 special or full-time service performed on behalf of the  
219 authority; amending s. 812.014, F.S.; providing penalties  
220 for the theft of bee colonies of registered beekeepers;  
221 amending s. 812.015, F.S.; redefining the term "farmer" to  
222 include a person who grows or produces honey; redefining  
223 the term "farm theft" to include the unlawful taking  
224 possession of equipment and associated materials used to



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225 | grow or produce certain farm products; renaming the  
 226 | department's Division of Forestry as the Florida Forest  
 227 | Service; providing for conforming legislation; providing  
 228 | for assistance to certain legislative substantive  
 229 | committees by the Division of Statutory Revision of the  
 230 | Office of Legislative Services for certain purposes;  
 231 | amending ss. 20.14, 261.03, 570.29, 570.548, 570.549,  
 232 | 570.903, and 590.015, F.S., to conform; providing an  
 233 | appropriation; providing an effective date.

234 |

235 | Be It Enacted by the Legislature of the State of Florida:

236 |

237 | Section 1. Paragraphs (g) through (m) of subsection (2) of  
 238 | section 20.14, Florida Statutes, are redesignated as paragraphs  
 239 | (f) through (l), respectively, and present paragraph (f) of that  
 240 | subsection is amended to read:

241 | 20.14 Department of Agriculture and Consumer Services.—  
 242 | There is created a Department of Agriculture and Consumer  
 243 | Services.

244 | (2) The following divisions of the Department of  
 245 | Agriculture and Consumer Services are established:

246 | ~~(f) Dairy Industry.~~

247 | Section 2. Subsection (5) of section 193.461, Florida  
 248 | Statutes, is amended to read:

249 | 193.461 Agricultural lands; classification and assessment;  
 250 | mandated eradication or quarantine program.—

251 | (5) For the purpose of this section, "agricultural  
 252 | purposes" includes, but is not limited to, horticulture;

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253 floriculture; viticulture; forestry; dairy; livestock; poultry;  
 254 bee; pisciculture, when the land is used principally for the  
 255 production of tropical fish; aquaculture; sod farming; and all  
 256 forms of farm products as defined in s. 823.14(3) and farm  
 257 production.

258 Section 3. Subsection (2) of section 215.981, Florida  
 259 Statutes, is amended to read:

260 215.981 Audits of state agency direct-support  
 261 organizations and citizen support organizations.—

262 (2) Notwithstanding ~~the provisions of~~ subsection (1),  
 263 direct-support organizations and citizen support organizations  
 264 for the Department of Environmental Protection or direct-support  
 265 organizations and citizen support organizations for the  
 266 Department of Agriculture and Consumer Services that are not for  
 267 profit and that have annual expenditures of less than \$300,000  
 268 are not required to have an independent audit. The respective  
 269 department shall establish accounting and financial management  
 270 guidelines for those organizations under its ~~the department's~~  
 271 jurisdiction. Each year, the respective department shall conduct  
 272 operational and financial reviews of a selected number of  
 273 direct-support organizations or citizen support organizations  
 274 that ~~which~~ fall below the audit threshold established in this  
 275 subsection.

276 Section 4. Paragraph (b) of subsection (2) of section  
 277 253.02, Florida Statutes, is amended to read:

278 253.02 Board of trustees; powers and duties.—

279 (2)

280 (b) The authority of the board of trustees to grant

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281 easements for rights-of-way over, across, and upon uplands the  
282 title to which is vested in the board of trustees for the  
283 construction and operation of electric transmission and  
284 distribution facilities and related appurtenances is hereby  
285 confirmed. The board of trustees may delegate to the Secretary  
286 of Environmental Protection the authority to grant such  
287 easements on its behalf. All easements for rights-of-way over,  
288 across, and upon uplands the title to which is vested in the  
289 board of trustees for the construction and operation of electric  
290 transmission and distribution facilities and related  
291 appurtenances which are approved by the Secretary of  
292 Environmental Protection pursuant to the authority delegated by  
293 the board of trustees shall meet the following criteria:

294 1. Such easements shall not prevent the use of the state-  
295 owned uplands adjacent to the easement area for the purposes for  
296 which such lands were acquired and shall not unreasonably  
297 diminish the ecological, conservation, or recreational values of  
298 the state-owned uplands adjacent to the easement area.

299 2. There is no practical and prudent alternative to  
300 locating the linear facility and related appurtenances on state-  
301 owned upland. For purposes of this subparagraph, the test of  
302 practicality and prudence shall compare the social, economic,  
303 and environmental effects of the alternatives.

304 3. Appropriate steps are taken to minimize the impacts to  
305 state-owned uplands. Such steps may include:

306 a. Siting of facilities so as to reduce impacts and  
307 minimize fragmentation of the overall state-owned parcel;

308 b. Avoiding significant wildlife habitat, wetlands, or

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309 | other valuable natural resources to the maximum extent  
310 | practicable; or  
311 |       c. Avoiding interference with active land management  
312 | practices, such as prescribed burning.  
313 |       4. Except for easements granted as a part of a land  
314 | exchange to accomplish a recreational or conservation benefit or  
315 | other public purpose, in exchange for such easements, the  
316 | grantee pays an amount equal to the market value of the interest  
317 | acquired. In addition, for the initial grant of such easements  
318 | only, the grantee shall provide additional compensation by  
319 | vesting in the board of trustees fee simple title to other  
320 | available uplands that are 1.5 times the size of the easement  
321 | acquired by the grantee. The Secretary of Environmental  
322 | Protection shall approve the property to be acquired on behalf  
323 | of the board of trustees based on the geographic location in  
324 | relation to the land proposed to be under easement and a  
325 | determination that economic, ecological, and recreational value  
326 | is at least equivalent to the value of the lands under proposed  
327 | easement. Priority for replacement uplands shall be given to  
328 | parcels identified as inholdings and additions to public lands  
329 | and lands on a Florida Forever land acquisition list. However,  
330 | if suitable replacement uplands cannot be identified, the  
331 | grantee shall provide additional compensation for the initial  
332 | grant of such easements only by paying to the lead manager of  
333 | the state-owned lands or, when there is no lead manager, by  
334 | paying to the department an amount equal to two times the  
335 | current market value of the state-owned land or the highest and  
336 | best use value at the time of purchase, whichever is greater.

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337 When determining such use of funds, priority shall be given to  
 338 parcels identified as inholdings and additions to public lands  
 339 and lands on a Florida Forever land acquisition list.

340 Section 5. Subsection (5) of section 261.04, Florida  
 341 Statutes, is amended to read:

342 261.04 Off-Highway Vehicle Recreation Advisory Committee;  
 343 members; appointment.—

344 (5) The members of the advisory committee shall serve  
 345 without compensation, ~~but shall be reimbursed for travel and per~~  
 346 ~~diem expenses as provided in s. 112.061,~~ while in the  
 347 performance of their official duties.

348 Section 6. Section 381.0014, Florida Statutes, is amended  
 349 to read:

350 381.0014 Regulations and ordinances superseded.—The rules  
 351 adopted by the department under the provisions of this chapter  
 352 shall, as to matters of public health, supersede all rules  
 353 enacted by other state departments, boards or commissions, or  
 354 ordinances and regulations enacted by municipalities, except  
 355 that this chapter does not alter or supersede any of the  
 356 provisions set forth in chapter ~~chapters~~ 502 and ~~503~~ or any rule  
 357 adopted under that chapter ~~the authority of those chapters~~.

358 Section 7. Subsection (4) of section 482.051, Florida  
 359 Statutes, is amended to read:

360 482.051 Rules.—The department has authority to adopt rules  
 361 pursuant to ss. 120.536(1) and 120.54 to implement the  
 362 provisions of this chapter. Prior to proposing the adoption of a  
 363 rule, the department shall counsel with members of the pest  
 364 control industry concerning the proposed rule. The department

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365 shall adopt rules for the protection of the health, safety, and  
 366 welfare of pest control employees and the general public which  
 367 require:

368 (4) That a licensee, before performing general fumigation,  
 369 notify in writing the department inspector having jurisdiction  
 370 over the location where the fumigation is to be performed, which  
 371 notice must be received by the department inspector at least 24  
 372 hours before ~~in advance of~~ the fumigation and must contain such  
 373 information as the department requires. However, in an authentic  
 374 and verifiable emergency, when 24 hours' advance notice  
 375 ~~notification~~ is not possible, advance notice may be given by  
 376 telephone, facsimile, or any form of acceptable electronic  
 377 communication, ~~telegraph notice may be given;~~ but such notice  
 378 must be immediately followed by written confirmation providing  
 379 the required information.

380 Section 8. Subsection (4) of section 482.071, Florida  
 381 Statutes, is amended to read:

382 482.071 Licenses.—

383 (4) A licensee may not operate a pest control business  
 384 without carrying the required insurance coverage. Each person  
 385 making application for a pest control business license or  
 386 renewal thereof must furnish to the department a certificate of  
 387 insurance that meets the requirements for minimum financial  
 388 responsibility for bodily injury and property damage consisting  
 389 of:

390 (a) Bodily injury: \$250,000 per ~~\$100,000 each~~ person and  
 391 \$500,000 per ~~\$300,000 each~~ occurrence; and property damage:  
 392 \$250,000 per ~~\$50,000 each~~ occurrence and \$500,000 ~~\$100,000~~ in

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393 the aggregate; or

394 (b) Combined single-limit coverage: \$500,000 ~~\$400,000~~ in  
 395 the aggregate.

396 Section 9. Section 482.072, Florida Statutes, is created  
 397 to read:

398 482.072 Pest control customer contact centers.-

399 (1) The department may issue a license to a qualified  
 400 business to operate a customer contact center, to solicit pest  
 401 control business, or to provide services to customers for one or  
 402 more business locations licensed under s. 482.071. A person may  
 403 not operate a customer contact center for a pest control  
 404 business that is not licensed by the department.

405 (2) (a) Before operating a customer contact center, and  
 406 biennially thereafter, on or before an anniversary date set by  
 407 the department for a licensed customer contact center location,  
 408 the pest control business must apply to the department for a  
 409 license under this chapter, or a renewal thereof, for each  
 410 customer contact center location. An application must be  
 411 submitted in the format prescribed by the department.

412 (b) The department shall establish a fee of at least \$600,  
 413 but not more than \$1,000, for the issuance of a customer contact  
 414 center license and a fee of at least \$600, but not more than  
 415 \$1,000, for renewal of a customer contact center license.  
 416 However, until rules for renewal fees are adopted, the initial  
 417 licensing fee and renewal fee are each \$600. The department  
 418 shall establish a grace period, not to exceed 30 calendar days  
 419 after the license's anniversary renewal date, and shall assess a  
 420 late fee of \$150, in addition to the renewal fee, for a license

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421 that is renewed after the grace period.

422 (c) A license automatically expires 60 calendar days after  
 423 the anniversary renewal date unless the license is renewed  
 424 before that date. When a license expires, it may be reinstated  
 425 only upon reapplication and payment of the license renewal fee  
 426 and a late renewal fee.

427 (d) A license automatically expires if a licensee changes  
 428 the business address of its customer contact center location.  
 429 The department shall issue a new license upon payment of a \$250  
 430 fee. The new license automatically expires 60 calendar days  
 431 after the anniversary renewal date of the former license unless  
 432 the license is renewed before that date.

433 (e) The department may not issue or renew a license to  
 434 operate a customer contact center unless the pest control  
 435 business licensees for which the customer contact center  
 436 solicits business are owned in common by a person or business  
 437 entity recognized by this state.

438 (f) The department may deny a license or refuse to renew a  
 439 license if the applicant or licensee, or one or more of the  
 440 applicant's or licensee's directors, officers, owners, or  
 441 general partners, are or have been directors, officers, owners,  
 442 or general partners of a pest control business that meets the  
 443 conditions in s. 482.071(2)(g).

444 (g) Sections 482.091 and 482.152 do not apply to a person  
 445 who solicits pest control services or provides customer service  
 446 in a licensed customer contact center unless the person performs  
 447 pest control as defined in s. 482.021(22)(a)-(d), executes a  
 448 pest control contract, or accepts remuneration for such work.



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449 (h) Section 482.071(2)(e) does not apply to a license  
 450 issued under this section.

451 (3)(a) The department shall adopt rules establishing  
 452 requirements and procedures for customer contact center  
 453 recordkeeping and monitoring to ensure compliance with this  
 454 section and rules adopted in accordance with this section.

455 (b) Notwithstanding any other provision of this section:

456 1. A customer contact center licensee is subject to  
 457 disciplinary action under s. 482.161 for a violation of this  
 458 section or a rule adopted under this section committed by a  
 459 person who solicits pest control services or provides customer  
 460 service in a customer contact center.

461 2. A pest control business licensee may be subject to  
 462 disciplinary action under s. 482.161 for a violation of this  
 463 section or a rule adopted under this section committed by a  
 464 person who solicits pest control services or provides customer  
 465 service in a customer contact center operated by a licensee if  
 466 the licensee participates in the violation.

467 Section 10. Section 482.157, Florida Statutes, is created  
 468 to read:

469 482.157 Limited certification for commercial wildlife  
 470 management personnel.—

471 (1) The department shall establish a limited certificate  
 472 that authorizes a person who engages in the commercial trapping  
 473 of wildlife to use nonchemical methods, including traps,  
 474 mechanical or electronic devices, and exclusionary techniques to  
 475 control commensal rodents.

476 (2) The department shall issue a limited certificate to an

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477 applicant who:

478 (a) Submits an application and examination fee of at least

479 \$150, but not more than \$300, as prescribed by the department by

480 rule;

481 (b) Passes an examination administered by the department.

482 The department shall provide the appropriate study materials for

483 the examination and make the examination readily available to

484 applicants in each county as necessary, but not less frequently

485 than quarterly; and

486 (c) Provides proof, including a certificate of insurance,

487 that the applicant has met the minimum bodily injury and

488 property damage insurance requirements in s. 482.071(4).

489 (3) An application for recertification must be made

490 annually and be accompanied by a recertification fee of at least

491 \$75, but not more than \$150, as prescribed by the department by

492 rule. The application must also be accompanied by proof of

493 completion of the required 4 classroom hours of acceptable

494 continuing education and the required proof of insurance. After

495 a grace period not exceeding 30 calendar days after the

496 recertification renewal date, the department shall assess a late

497 fee of \$50 in addition to the renewal fee. A certificate

498 automatically expires 180 days after the recertification date if

499 the renewal fee has not been paid. After expiration, the

500 department shall issue a new certificate only if the applicant

501 successfully passes a reexamination and pays the examination fee

502 and late fee.

503 (4) Certification under this section does not authorize:

504 (a) The use of pesticides or chemical substances, other

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505 than adhesive materials, to control rodents or other nuisance  
 506 wildlife in, on, or under structures;

507 (b) Operation of a pest control business; or

508 (c) Supervision of an uncertified person using nonchemical  
 509 methods to control rodents.

510 Section 11. Section 482.183, Florida Statutes, is amended  
 511 to read:

512 482.183 Limitations.—

513 (1) (a) A person may not be charged with a violation of  
 514 this chapter or any rule adopted pursuant to this chapter more  
 515 than 3 years after the date of the violation.

516 (b) ~~(2)~~ For the purpose of this subsection ~~section~~, a  
 517 charge of violation is considered to have been made upon the  
 518 issuance of a notice or citation by the department charging such  
 519 violation.

520 (2) A person licensed or certified under this chapter who  
 521 practices accepted pest control methods is immune from liability  
 522 under s. 828.12.

523 (3) This chapter does not exempt a person from the rules,  
 524 regulations, or orders of the Fish and Wildlife Conservation  
 525 Commission.

526 Section 12. Subsection (6) of section 482.226, Florida  
 527 Statutes, is amended to read:

528 482.226 Wood-destroying organism inspection report; notice  
 529 of inspection or treatment; financial responsibility.—

530 (6) Any licensee that performs wood-destroying organism  
 531 inspections in accordance with subsection (1) must meet minimum  
 532 financial responsibility in the form of errors and omissions

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533 (professional liability) insurance coverage or bond in an amount  
 534 no less than \$500,000 ~~\$50,000~~ in the aggregate and \$250,000  
 535 ~~\$25,000~~ per occurrence, or demonstrate that the licensee has  
 536 equity or net worth of no less than \$500,000 ~~\$100,000~~ as  
 537 determined by generally accepted accounting principles  
 538 substantiated by a certified public accountant's review or  
 539 certified audit. The licensee must show proof of meeting this  
 540 requirement at the time of license application or renewal  
 541 thereof.

542 Section 13. Subsection (6) of section 482.243, Florida  
 543 Statutes, is amended to read:

544 482.243 Pest Control Enforcement Advisory Council.—

545 (6) The meetings, powers and duties, procedures, and  
 546 recordkeeping, ~~and reimbursement of expenses of members~~ of the  
 547 council shall be in accordance with the provisions of s.  
 548 570.0705 relating to advisory committees established within the  
 549 department.

550 Section 14. Paragraph (a) of subsection (1) of section  
 551 487.041, Florida Statutes, is amended, and paragraphs (h), (i),  
 552 and (j) are added to that subsection, to read:

553 487.041 Registration.—

554 (1)(a) Effective January 1, 2009, each brand of pesticide,  
 555 as defined in s. 487.021, which is distributed, sold, or offered  
 556 for sale, except as provided in this section, within this state  
 557 or delivered for transportation or transported in intrastate  
 558 commerce or between points within this state through any point  
 559 outside this state must be registered in the office of the  
 560 department, and such registration shall be renewed biennially.

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561 Emergency exemptions from registration may be authorized in  
562 accordance with the rules of the department. The registrant  
563 shall file with the department a statement including:

564 1. The name, business mailing address, and street address  
565 of the registrant.

566 2. The name of the brand of pesticide.

567 3. An ingredient statement and a complete current copy of  
568 the labeling accompanying the brand of ~~the~~ pesticide, which must  
569 conform to the registration, and a statement of all claims to be  
570 made for it, including directions for use and a guaranteed  
571 analysis showing the names and percentages by weight of each  
572 active ingredient, the total percentage of inert ingredients,  
573 and the names and percentages by weight of each "added  
574 ingredient."

575 (h) All registration fees, including supplemental fees and  
576 late fees, are nonrefundable.

577 (i) For any currently registered pesticide product brand  
578 that undergoes labeling revisions during the registration  
579 period, the registrant shall submit to the department a copy of  
580 the revised labeling along with a cover letter detailing such  
581 revisions before the sale or distribution in this state of the  
582 product brand with the revised labeling. If the labeling  
583 revisions require notification of an amendment review by the  
584 United States Environmental Protection Agency, the registrant  
585 shall submit an additional copy of the labeling marked to  
586 identify those revisions.

587 (j) Effective January 1, 2013, all payments of any  
588 pesticide registration fees, including supplemental fees and

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589 late fees, shall be submitted electronically using the  
 590 department's Internet website for registration of pesticide  
 591 product brands.

592 Section 15. Subsection (5) of section 487.0615, Florida  
 593 Statutes, is amended to read:

594 487.0615 Pesticide Review Council.—

595 (5) Members of the council shall receive no compensation  
 596 for their services, ~~but are entitled to be reimbursed for per~~  
 597 ~~diem and travel expenses as provided in s. 112.061.~~

598 Section 16. Subsection (6) of section 500.70, Florida  
 599 Statutes, is renumbered as subsection (7), and a new subsection  
 600 (6) is added to that section to read:

601 500.70 Tomato food safety standards; inspections;  
 602 penalties; tomato good agricultural practices; tomato best  
 603 management practices.—

604 (6) Any person who produces, harvests, packs, or repacks  
 605 tomatoes in this state and does not hold a food permit issued  
 606 under s. 500.12 shall annually register each location of a  
 607 tomato farm, tomato greenhouse, tomato packinghouse, or tomato  
 608 repacker by August 1 on a form prescribed by the department. Any  
 609 person who produces, harvests, packs, or repacks tomatoes at  
 610 more than one location may submit one registration for all such  
 611 locations but must provide the physical address of each  
 612 location. The department may set by rule an annual registration  
 613 fee not to exceed \$500. Moneys collected pursuant to this  
 614 subsection shall be deposited into the General Inspection Trust  
 615 Fund.

616 Section 17. The title of chapter 502, Florida Statutes, is

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617 redesignated as "MILK, MILK PRODUCTS, AND FROZEN DESSERTS."

618 Section 18. Section 502.012, Florida Statutes, is amended  
619 to read:

620 502.012 Definitions.—As used in this chapter, the term ~~The~~  
621 ~~following definitions shall apply in the interpretation and~~  
622 ~~enforcement of this law:~~

623 (1) "Bulk milk pickup tanker" means a vehicle, including  
624 the truck and tank, and necessary attachments, used by a milk  
625 hauler to transport bulk raw milk for pasteurization from a  
626 dairy farm to a milk plant, receiving station, or transfer  
627 station.

628 (2) "Dairy farm" means any place or premises where one or  
629 more cows, goats, sheep, water buffalo, or other hooved mammals  
630 are kept and from which a part or all of the milk is provided,  
631 sold, or offered for sale.

632 (3) "Department" means the Department of Agriculture and  
633 Consumer Services.

634 (4) "Frozen dessert" means a specific standardized frozen  
635 dessert described in 21 C.F.R. part 135 and any other food  
636 defined by rule of the department that resembles such  
637 standardized frozen dessert but does not conform to the specific  
638 description of such standardized frozen dessert in 21 C.F.R.  
639 part 135. The term includes, but is not limited to, a  
640 quiescently frozen confection, a quiescently frozen dairy  
641 confection, a frozen dietary dairy dessert, and a frozen dietary  
642 dessert.

643 (5) "Frozen desserts manufacturer" means a person who  
644 manufactures, processes, converts, partially freezes, or freezes

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645 any mix or frozen dessert for distribution or sale.

646 (6) "Frozen desserts plant" means any location or premises  
 647 at which frozen desserts or mix are manufactured, processed, or  
 648 frozen for distribution or sale at wholesale.

649 (7) "Frozen desserts retail establishment" means any  
 650 location or premises, including a retail store, stand, hotel,  
 651 boardinghouse, restaurant, vehicle, or mobile unit, at which  
 652 frozen desserts are frozen, partially frozen, or dispensed for  
 653 sale at retail.

654 (8) "Frozen dietary dairy dessert" or "frozen dietary  
 655 dessert" means a food for any special dietary use, prepared by  
 656 freezing, with or without agitation, and composed of a  
 657 pasteurized mix that may contain fat, protein, carbohydrates,  
 658 natural or artificial sweeteners, flavoring, stabilizers,  
 659 emulsifiers, vitamins, and minerals.

660 (9)-(4) "Grade 'A' pasteurized milk ordinance" means the  
 661 document entitled "Grade 'A' Pasteurized Milk Ordinance, United  
 662 States Department of Health and Human Services, Public Health  
 663 Service, Food and Drug Administration," including all associated  
 664 appendices, as adopted by department rule.

665 (10)-(5) "Imitation milk and imitation milk products" means  
 666 those foods that have the physical characteristics, such as  
 667 taste, flavor, body, texture, or appearance, of milk or milk  
 668 products as defined in this chapter and the Grade "A"  
 669 pasteurized milk ordinance but do not come within the definition  
 670 of "milk" or "milk products" and are nutritionally inferior to  
 671 the product imitated.

672 (11)-(6) "Milk" means the lacteal secretion, practically



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673 free from colostrum, obtained by the complete milking of one or  
 674 more healthy cows, goats, sheep, water buffalo, or other hooved  
 675 mammals.

676 (12)~~(7)~~ "Milk distributor" means any person who offers for  
 677 sale or sells to another person any milk or milk product.

678 (13)~~(8)~~ "Milk products" means products made with milk that  
 679 is processed in some manner, including being whipped, acidified,  
 680 cultured, concentrated, lactose-reduced, or sodium-reduced or  
 681 aseptically processed, or having the addition or subtraction of  
 682 milkfat, the addition of safe and suitable microbial organisms,  
 683 or the addition of safe and suitable optional ingredients for  
 684 protein, vitamin, or mineral fortification. "Milk products" do  
 685 not include products such as evaporated milk, condensed milk,  
 686 eggnog in a rigid metal container, dietary products, infant  
 687 formula, or ice cream and other desserts.

688 (14)~~(9)~~ "Milkfat" or "butterfat" means the fat contained  
 689 in milk.

690 (15)~~(10)~~ "Milk hauler" means any person who transports raw  
 691 milk or raw milk products to or from a milk plant, receiving  
 692 station, or transfer station.

693 (16)~~(11)~~ "Milk plant" means any place, premises, or  
 694 establishment where milk or milk products are collected,  
 695 handled, processed, stored, pasteurized, aseptically processed,  
 696 bottled, or prepared for distribution.

697 (17)~~(12)~~ "Milk plant operator" means any person  
 698 responsible for receiving, processing, pasteurizing, or  
 699 packaging milk and milk products, or performing any other  
 700 related operation.

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701           ~~(18)-(13)~~ "Milk producer" means any person who operates a  
 702 dairy farm and provides, sells, or offers for sale milk to a  
 703 milk plant, receiving station, or transfer station.

704           ~~(19)-(14)~~ "Milk tank truck" means either a bulk milk pickup  
 705 tanker or a milk transport tank.

706           ~~(20)-(15)~~ "Milk transport tank" means a vehicle, including  
 707 the truck and tank, used by a milk hauler to transport bulk  
 708 shipments of milk from a milk plant, receiving station, or  
 709 transfer station to another milk plant, receiving station, or  
 710 transfer station.

711           (21) "Quiescently frozen confection" means a clean and  
 712 wholesome frozen, sweetened, flavored product that, while being  
 713 frozen, was not stirred or agitated (generally known as  
 714 quiescent freezing). The confection may be acidulated with food-  
 715 grade acid, may contain milk solids or water, or may be made  
 716 with or without added harmless pure or imitation flavoring and  
 717 with or without harmless coloring. The finished product must not  
 718 contain more than 0.5 percent by weight of stabilizer composed  
 719 of wholesome, edible material and must not contain less than 17  
 720 percent by weight of total food solids. In the production of the  
 721 confection, processing or mixing before quiescent freezing that  
 722 develops in the finished confection mix any physical expansion  
 723 in excess of 10 percent may not be used.

724           (22) "Quiescently frozen dairy confection" means a clean  
 725 and wholesome frozen product made from water, milk products, and  
 726 sugar, with added harmless pure or imitation flavoring, with or  
 727 without added harmless coloring, with or without added  
 728 stabilizer, or with or without added emulsifier, that, while

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729 being frozen, was not stirred or agitated (generally known as  
 730 quiescent freezing). The confection must not contain less than  
 731 13 percent by weight of total milk solids, less than 33 percent  
 732 by weight of total food solids, more than 0.5 percent by weight  
 733 of stabilizer, or more than 0.2 percent of weight by emulsifier.  
 734 Stabilizer and emulsifier must be composed of wholesome, edible  
 735 material. In the production of a quiescently frozen dairy  
 736 confection, processing or mixing before quiescently freezing  
 737 that develops in the finished confection mix any physical  
 738 expansion in excess of 10 percent may not be used.

739 ~~(23)-(16)~~ "Raw milk" means unprocessed milk.

740 ~~(24)-(17)~~ "Receiving station" means any place, premises, or  
 741 establishment where raw milk is received, collected, handled,  
 742 stored, or cooled and is prepared for further transporting.

743 ~~(25)-(18)~~ "Substitute milk and substitute milk products"  
 744 means those foods that have the physical characteristics, such  
 745 as taste, flavor, body, texture, or appearance, of milk or milk  
 746 products as defined in this chapter and the Grade "A"  
 747 pasteurized milk ordinance but do not come within the definition  
 748 of "milk" or "milk products" and are nutritionally equivalent to  
 749 the product for which they are substitutes.

750 ~~(26)-(19)~~ "Transfer station" means any place, premises, or  
 751 establishment where milk or milk products are transferred  
 752 directly from one milk tank truck to another.

753 ~~(27)-(20)~~ "Washing station" means any place, premises, or  
 754 establishment where milk tank trucks are cleaned and sanitized.

755 Section 19. Section 502.013, Florida Statutes, is amended  
 756 to read:

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757           502.013 Purpose; intent.—

758           (1) PURPOSE.—The purpose of this chapter is to:

759           (a) Ensure, without undue burden on either the regulatory

760 agency or the dairy industry, that milk, ~~and~~ milk products,

761 frozen desserts, and frozen dessert mix sold or offered for sale

762 in this state are produced under sanitary conditions, are

763 wholesome and fit for human consumption, and are correctly

764 labeled as to grade, quality, and source of production.

765           (b) Encourage uniformity and a high level of sanitation in

766 milk and frozen dessert production practices in this state.

767           (c) Facilitate the shipment and acceptance of milk and

768 milk products of high sanitary quality in interstate and

769 intrastate commerce.

770           (d) Ensure the normal flow of fresh wholesome milk and

771 milk products from the farmer to the consumer by uniform

772 regulation of the shelf life of milk and milk products in this

773 state.

774           (2) INTENT.—

775           (a) It is the intent of the Legislature to:

776           1. Eliminate, to the extent practicable, overlapping and

777 unnecessary inspections of dairy farms, ~~and~~ milk plants, and

778 frozen dessert plants which may be performed by any agency of

779 state or local government.

780           2. Pay for the regulation of milk and milk products,

781 except as otherwise provided in s. 502.053 ~~502.032~~, through the

782 General Revenue Fund.

783           (b) It is not the intent of the Legislature to limit the

784 authority of any agency of state or local government to take

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785 immediate action incident to the production, processing, or  
 786 distribution of milk, ~~and~~ milk products, and frozen desserts  
 787 when such action is necessary to protect the public health.

788 Section 20. Subsections (1), (2), (6), and (7) of section  
 789 502.014, Florida Statutes, are amended to read:

790 502.014 Powers and duties.—

791 (1) The department shall administer and enforce all  
 792 regulatory laws currently in effect governing:

793 (a) The production, processing, and distribution of milk,  
 794 ~~and~~ milk products, frozen desserts, and frozen dessert mix.

795 (b) The sanitation and sanitary practices of  
 796 establishments where food and drink, including milk and milk  
 797 products, are sold for consumption on the premises, except food  
 798 service establishments regulated under chapters 381 and 509.

799 (c) The sanitary and healthful condition of the food and  
 800 drink sold or offered for sale by establishments under the  
 801 department's jurisdiction pursuant to paragraph (b).

802 (d) The laboratory work of testing and analyzing milk, ~~and~~  
 803 milk products, frozen desserts, and frozen dessert mix.

804 (2)(a) The department shall conduct onsite inspections of  
 805 dairy farms, ~~and~~ milk plants, and frozen dessert plants and  
 806 collect test samples of milk, ~~and~~ milk products, and frozen  
 807 desserts as required by this chapter.

808 (b) The department shall designate employees who shall be  
 809 certified by the United States Food and Drug Administration as  
 810 state milk sanitation rating officers, sampling surveillance  
 811 officers, and laboratory evaluation officers in accordance with  
 812 the requirements published in "Methods of Making Sanitation

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813 Ratings of Milk Shippers ~~Supplies~~," "Evaluation of Milk  
 814 Laboratories," and "Procedures Governing the Cooperative State-  
 815 Public Health Service/Food and Drug Administration Program for  
 816 Certification of Interstate Milk Shippers," respectively, as  
 817 adopted by department rule. These officers shall conduct routine  
 818 sanitation compliance survey ratings of milk producers, milk  
 819 plants, laboratories, receiving stations, transfer stations, and  
 820 manufacturers of single-service containers for milk and milk  
 821 products. These ratings shall be made in accordance with the  
 822 recommendations of the United States Food and Drug  
 823 Administration published in "Methods of Making Sanitation  
 824 Ratings of Milk Shippers." ~~Standard Methods for the Examination~~  
 825 ~~of Dairy Products.~~

826 (6) The department has authority to adopt rules pursuant  
 827 to ss. 120.536(1) and 120.54 to implement and enforce the  
 828 provisions of this chapter. In adopting these rules, the  
 829 department shall be guided by and may conform to the definitions  
 830 and standards of the administrative procedures and provisions of  
 831 the Grade "A" pasteurized milk ordinance and other applicable  
 832 federal requirements. The rules shall include, but are not  
 833 limited to:

834 (a) Standards for milk, ~~and~~ milk products, and frozen  
 835 desserts.

836 (b) Provisions for the production, transportation,  
 837 processing, handling, sampling, examination, grading, labeling,  
 838 and sale of all milk, ~~and~~ milk products, frozen desserts, and  
 839 imitation and substitute milk and milk products sold for public  
 840 consumption in this state.

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841 (c) Provisions for the inspection of dairy herds, dairy  
842 farms, frozen dessert plants, and milk plants.

843 (d) Provisions for the issuance and revocation of permits  
844 issued by the department pursuant to this chapter.

845 (7) The department shall not conduct routine tests or  
846 inspections on raw milk that is shipped from outside the state.  
847 Nothing in this subsection shall be construed to limit the  
848 authority of the department to review industry records or sample  
849 milk or frozen desserts at any stage of production, processing,  
850 or distribution in cases of suspected hazard to public health.

851 Section 21. Section 502.032, Florida Statutes, is  
852 repealed.

853 Section 22. Section 502.053, Florida Statutes, is amended  
854 to read:

855 502.053 Permits and licenses; fees; requirements;  
856 exemptions; temporary permits.-

857 (1) PERMITS AND LICENSES.-

858 (a) Each Grade "A" milk plant, whether located in the  
859 state or outside the state, and each manufacturing milk plant,  
860 milk producer, milk hauler, milk hauling service, washing  
861 station operator, milk plant operator, milk distributor, single-  
862 service-container manufacturer, receiving station, and transfer  
863 station in the state shall apply to the department for a permit  
864 to operate. The application shall be on forms developed by the  
865 department.

866 (b) Each frozen dessert plant, whether located in the  
867 state or outside the state, that manufactures frozen desserts or  
868 other products defined in this chapter and offers these products

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869 for sale in this state must apply to the department for a permit  
 870 to operate. The application must be submitted on forms  
 871 prescribed by the department. All frozen dessert permits expire  
 872 on June 30 of each year.

873 (c) Any person who tests milk or milk products for milkfat  
 874 content by weight, volume, chemical, electronic, or other method  
 875 when the result of such test is used as a basis for payment for  
 876 the milk or milk products must apply to the department for a  
 877 license. To qualify for a license, the applicant must  
 878 demonstrate a sufficiency of knowledge, ability, and equipment  
 879 to adequately perform milkfat tests. The license shall be issued  
 880 for a period of 2 years after the date of first issuance upon  
 881 application to the department on forms prescribed by the  
 882 department.

883 (d)~~(b)~~ Permits and licenses are nontransferable between  
 884 persons or locations and are subject to suspension or revocation  
 885 as provided in this chapter.

886 (2) FEES.—

887 (a) The initial application for a frozen dessert plant  
 888 permit must be accompanied by a permit fee of \$200. The annual  
 889 permit renewal fee is \$100.

890 (b) The department shall charge each applicant for a  
 891 milkfat tester's license a fee not to exceed \$125.

892 (3)~~(2)~~ REQUIREMENTS.—

893 (a) To obtain a frozen dessert plant permit or milkfat  
 894 tester's license, an applicant must satisfy all requirements  
 895 that are defined by the department in rule and must agree to  
 896 comply with the applicable provisions of this chapter and rules



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897 | adopted under this chapter. The department shall mail a copy of  
 898 | the permit or license to the applicant to signify that  
 899 | administrative requirements have been met.

900 | (b) All permitholders must maintain records of  
 901 | transactions concerning the procurement, production, and  
 902 | processing of milk and milk products as required in the Grade  
 903 | "A" pasteurized milk ordinance and grant department inspectors  
 904 | access to such records during all reasonable hours.

905 | (c) In addition to the testing required in the Grade "A"  
 906 | pasteurized milk ordinance and its appendices, each milk plant  
 907 | operator in the state shall be responsible for routine testing  
 908 | and inspection of raw milk shipped from outside the state prior  
 909 | to processing and shall notify the department when such testing  
 910 | and inspection indicate a violation of the standards contained  
 911 | in the Grade "A" pasteurized milk ordinance.

912 | (d) Each frozen dessert plant permitholder must report  
 913 | monthly, quarterly, semiannually, or annually, as required by  
 914 | the department, the number of gallons of frozen dessert or  
 915 | frozen dessert mix sold or manufactured by the permitholder in  
 916 | this state.

917 | (e) Each licensed milkfat tester shall keep records of  
 918 | milkfat tests conducted by him or her for a period of 1 year,  
 919 | and such records must be available for inspection by the  
 920 | department at all reasonable hours.

921 | ~~(4)~~ EXEMPTIONS.—

922 | (a) The following persons shall be exempt from milk hauler  
 923 | permit requirements:

924 | 1. Milk producers who transport milk or milk products only

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925 from their own dairy farms.

926 2. Employees of a milk distributor or milk plant operator  
927 who possesses a valid permit.

928 3. Drivers of bulk milk tank trucks between locations who  
929 do not collect milk from farms.

930 (b) Grocery stores, restaurants, soda fountains, and  
931 similar establishments where milk or milk products are served or  
932 sold, but not processed, may be exempted from permit  
933 requirements.

934 (c) Frozen desserts retail establishments as defined in s.  
935 502.012 are exempt from this chapter.

936 (5)~~(4)~~ TEMPORARY PERMITS.—

937 (a) The department may issue a temporary permit for a  
938 period not exceeding 90 days to milk producers who have  
939 submitted an application to the department and passed a  
940 preliminary inspection as required in the Grade "A" pasteurized  
941 milk ordinance.

942 (b) During this 90-day period, the department shall act  
943 expeditiously to determine compliance with all relevant laws  
944 and, upon finding compliance, shall issue a permit pursuant to  
945 subsection (1).

946 Section 23. Section 502.054, Florida Statutes, is amended  
947 to read:

948 502.054 Inspection and reinspection.—

949 (1) The department shall establish a schedule for  
950 inspections which shall require routine inspections in  
951 accordance with the minimum requirements contained in the Grade  
952 "A" pasteurized milk ordinance and more frequent inspections or

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953 reinspections for permitholders with serious or repeated  
 954 violations.

955 (2) The department shall inspect frozen desserts and  
 956 frozen dessert plants that handle and process mix and  
 957 manufacture frozen desserts for wholesale. Inspections must be  
 958 based on the frequency and severity of a violation. However, the  
 959 department must comply with all federal requirements governing  
 960 inspections.

961 Section 24. Subsection (1) of section 502.091, Florida  
 962 Statutes, is amended to read:

963 502.091 Milk and milk products which may be sold.—

964 (1) Only Grade "A" pasteurized milk and milk products,  
 965 pasteurized manufactured milk products, ice cream, and frozen  
 966 desserts, and cheese made from pasteurized milk shall be sold at  
 967 retail to the final consumer or to food service establishments  
 968 as defined in chapter 381, food establishments as defined in  
 969 chapter 500, or public food service establishments as defined in  
 970 chapter 509. Cheese made from raw milk may also be sold at  
 971 retail to the final consumer or to food service establishments  
 972 as defined in chapter 381, food establishments as defined in  
 973 chapter 500, or public food service establishments as defined in  
 974 chapter 509 if the cheese is aged more than 60 days at a  
 975 temperature above 35° F.

976 (a) In an emergency, however, the department may authorize  
 977 the sale of reconstituted pasteurized milk products, or  
 978 pasteurized milk and milk products that have not been graded or  
 979 the grade of which is unknown, in which case such milk and milk  
 980 products shall be appropriately labeled, as determined by the

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981 department.

982 (b) If the department determines that milk is fit for  
 983 human consumption even though it is less than Grade "A" because  
 984 the producer failed to comply with the sanitation or bacterial  
 985 standards defined in this chapter, or if any specific shipment  
 986 of milk fails to comply with standards of the Grade "A"  
 987 pasteurized milk ordinance, the department may issue a permit  
 988 allowing the milk to be used in ungraded products, such as  
 989 frozen desserts, which are being processed by such milk plant.  
 990 During processing of such milk, it shall be pasteurized at a  
 991 temperature of at least 175° F. for at least 15 seconds or at  
 992 least 160° F. for at least 30 minutes.

993 Section 25. Subsections (1) and (2) of section 502.121,  
 994 Florida Statutes, are amended to read:

995 502.121 Future dairy farms and milk and frozen dessert  
 996 plants.-

997 (1) All future construction or extensive alteration of  
 998 milk houses, milking barns, stables, parlors, transfer stations,  
 999 and milk and frozen dessert plants regulated under this chapter  
 1000 must meet certain minimum specifications and requirements which  
 1001 the department shall establish by rule.

1002 (2) Anyone who plans to construct a new milk house,  
 1003 milking barn, stable, parlor, transfer station, or milk or  
 1004 frozen dessert plant~~7~~ or extensively alter any such existing  
 1005 facility~~7~~ shall notify the department in writing of the  
 1006 intention to construct or alter, the date construction or  
 1007 alteration is to begin, and the legal description of the  
 1008 property for which the construction is planned.

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1009 Section 26. Subsection (1) of section 502.181, Florida  
 1010 Statutes, is amended to read:

1011 502.181 Prohibited acts.—It is unlawful for any person in  
 1012 this state to:

1013 (1) Engage in the business of producing, hauling,  
 1014 transferring, receiving, processing, packaging, or distributing  
 1015 milk, ~~or~~ milk products, or frozen desserts or operating a  
 1016 washing station, manufacturing single-service containers,  
 1017 manufacturing imitation or substitute milk or milk products, or  
 1018 testing for milkfat content, without first obtaining a permit or  
 1019 license from the department.

1020 Section 27. Subsection (1) of section 502.231, Florida  
 1021 Statutes, is amended to read:

1022 502.231 Penalty and injunction.—

1023 (1) The department may enter an order imposing one or more  
 1024 of the following penalties against any person who violates any  
 1025 provision of ~~the provisions~~ of this chapter:

1026 (a) Issuance of a warning letter that relates to the class  
 1027 of the violation.

1028 (b) Imposition of an administrative fine not to exceed:

1029 1. Ten thousand dollars per violation in the case of a  
 1030 frozen dessert licensee;

1031 2. Ten percent of the license fee or \$100, whichever is  
 1032 greater, for failure to report the information described in s.  
 1033 502.053(3)(d); or

1034 3. One thousand dollars ~~of not more than \$1,000~~ per  
 1035 occurrence for any other violation.

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1037 ~~(e)~~ When imposing a fine under this paragraph ~~section~~, the  
 1038 department must consider the degree and extent of harm caused by  
 1039 the violation, the cost of rectifying the damage, the benefit to  
 1040 the violator, whether the violation was committed willfully, and  
 1041 the violator's compliance record.

1042 (c) ~~(d)~~ Revocation or suspension of any permit issued by  
 1043 the department under this chapter.

1044 Section 28. Section 502.232, Florida Statutes, is amended  
 1045 to read:

1046 502.232 Local regulations superseded.—All special or local  
 1047 acts, general laws of limited application, county ordinances or  
 1048 resolutions, municipal ordinances or resolutions, and municipal  
 1049 charter provisions that authorize the regulation of milk or milk  
 1050 products, or frozen desserts for wholesale, are superseded by  
 1051 this chapter and the rules adopted pursuant to this chapter.

1052 Section 29. Chapter 503, Florida Statutes, consisting of  
 1053 sections 503.011, 503.021, 503.031, 503.041, 503.0415, 503.051,  
 1054 503.071, 503.081, and 503.091, is repealed.

1055 Section 30. Subsection (5) of section 527.22, Florida  
 1056 Statutes, is amended to read:

1057 527.22 Florida Propane Gas Education, Safety, and Research  
 1058 Council established; membership; duties and responsibilities.—

1059 (5) Council members shall receive no compensation or  
 1060 honorarium for their services, ~~and are authorized to receive~~  
 1061 ~~only per diem and reimbursement for travel expenses as provided~~  
 1062 ~~in s. 112.061.~~

1063 Section 31. Subsection (3) of section 559.9221, Florida  
 1064 Statutes, is amended to read:

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1065           559.9221 Motor Vehicle Repair Advisory Council.—The Motor  
 1066 Vehicle Repair Advisory Council is created to advise and assist  
 1067 the department in carrying out this part.

1068           (3) The members of the council shall receive no  
 1069 compensation for their services, ~~except that they may receive~~  
 1070 ~~per diem and travel expenses as provided in s. 112.061.~~

1071           Section 32. Subsections (16), (19), and (28) of section  
 1072 570.07, Florida Statutes, are amended, present subsection (41)  
 1073 is renumbered as subsection (42), and a new subsection (41) is  
 1074 added to that section, to read:

1075           570.07 Department of Agriculture and Consumer Services;  
 1076 functions, powers, and duties.—The department shall have and  
 1077 exercise the following functions, powers, and duties:

1078           (16) To enforce the state laws and rules relating to:

1079           (a) Fruit and vegetable inspection and grading;

1080           (b) Pesticide spray, residue inspection, and removal;

1081           (c) Registration, labeling, inspection, sale, composition,  
 1082 formulation, wholesale and retail distribution, and analysis of  
 1083 commercial stock feeds and registration, labeling, inspection,  
 1084 and analysis of commercial fertilizers;

1085           (d) Classification, inspection, and sale of poultry and  
 1086 eggs;

1087           (e) Registration, inspection, and analysis of gasolines  
 1088 and oils;

1089           (f) Registration, labeling, inspection, and analysis of  
 1090 pesticides;

1091           (g) Registration, labeling, inspection, germination  
 1092 testing, and sale of seeds, both common and certified;

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- 1093 (h) Weights, measures, and standards;
- 1094 (i) Foods, as set forth in the Florida Food Safety Act;
- 1095 (j) Inspection and certification of honey;
- 1096 (k) Sale of liquid fuels;
- 1097 (l) Licensing of dealers in agricultural products;
- 1098 (m) Administration and enforcement of all regulatory
- 1099 legislation applying to milk and milk products, ice cream, and
- 1100 frozen desserts;
- 1101 (n) Recordation and inspection of marks and brands of
- 1102 livestock; ~~and~~
- 1103 (o) Regulation of fertilizer, including its sale,
- 1104 composition, packaging, labeling, wholesale and retail
- 1105 distribution, and formulation, including nutrient content level
- 1106 and release rates; and
- 1107 (p) ~~(o)~~ All other regulatory laws relating to agriculture.
- 1108
- 1109 In order to ensure uniform health and safety standards, the
- 1110 adoption of standards and fines in the subject areas of
- 1111 paragraphs (a)-(n) is expressly preempted to the state and the
- 1112 department. Any local government enforcing the subject areas of
- 1113 paragraphs (a)-(n) must use the standards and fines set forth in
- 1114 the pertinent statutes or any rules adopted by the department
- 1115 pursuant to those statutes.
- 1116 (19) To protect the dairy interests of the state; and, to
- 1117 that end, it shall enforce those functions, powers, and duties
- 1118 given to it in chapter ~~chapters~~ 502 ~~and~~ 503.
- 1119 (28) For purposes of pollution control and the prevention
- 1120 of wildfires ~~purposes~~, to regulate open burning connected with



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1121 ~~rural~~ land-clearing, agricultural, or forestry operations,  
 1122 ~~except fires for cold or frost protection.~~

1123 (41) (a) Except as otherwise provided in paragraph (b), to  
 1124 exercise the exclusive authority to regulate the sale,  
 1125 composition, packaging, labeling, wholesale and retail  
 1126 distribution, and formulation, including nutrient content level  
 1127 and release rates, of fertilizer under chapter 576. This  
 1128 subsection expressly preempts such regulation of fertilizer to  
 1129 the state.

1130 (b) An ordinance regulating the sale of fertilizer adopted  
 1131 by a county or municipal government before July 1, 2011, is  
 1132 exempt from this subsection, and the county or municipal  
 1133 government may enforce such ordinance within its respective  
 1134 jurisdiction.

1135 Section 33. Subsection (5) is added to section 576.181,  
 1136 Florida Statutes, to read:

1137 576.181 Administration; rules; procedure.—

1138 (5) (a) Except as otherwise provided in paragraph (b), the  
 1139 department has exclusive authority to regulate the sale,  
 1140 composition, packaging, labeling, wholesale and retail  
 1141 distribution, and formulation, including nutrient content level  
 1142 and release rates, of fertilizer. This subsection expressly  
 1143 preempts such regulation of fertilizer to the state.

1144 (b) An ordinance regulating the sale of fertilizer adopted  
 1145 by a county or municipal government before July 1, 2011, is  
 1146 exempt from this subsection, and the county or municipal  
 1147 government may enforce such ordinance within its respective  
 1148 jurisdiction.

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1149 Section 34. Subsection (9) of section 570.0705, Florida  
 1150 Statutes, is amended to read:

1151 570.0705 Advisory committees.—From time to time the  
 1152 commissioner may appoint any advisory committee to assist the  
 1153 department with its duties and responsibilities.

1154 (9) Members of each advisory committee shall receive no  
 1155 compensation for their services, ~~but shall be entitled to~~  
 1156 ~~reimbursement for per diem and travel expenses as provided in s.~~  
 1157 ~~112.061.~~

1158 Section 35. Section 570.074, Florida Statutes, is amended  
 1159 to read:

1160 570.074 Department of Agriculture and Consumer Services;  
 1161 energy and water policy coordination.—The commissioner may  
 1162 create an Office of Energy and Water Coordination under the  
 1163 supervision of a senior manager exempt under s. 110.205 in the  
 1164 Senior Management Service. The commissioner may designate the  
 1165 bureaus and positions in the various organizational divisions of  
 1166 the department that report to this office relating to any matter  
 1167 over which the department has jurisdiction in matters relating  
 1168 to energy and water policy affecting agriculture, application of  
 1169 such policies, and coordination of such matters with state and  
 1170 federal agencies.

1171 Section 36. Section 570.18, Florida Statutes, is amended  
 1172 to read:

1173 570.18 Organization of departmental work.—In the  
 1174 assignment of functions to the ~~12~~ divisions of the department  
 1175 created in s. 570.29, the department shall retain within the  
 1176 Division of Administration, in addition to executive functions,

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1177 those powers and duties enumerated in s. 570.30. The department  
 1178 shall organize the work of the other ~~11~~ divisions in such a way  
 1179 as to secure maximum efficiency in the conduct of the  
 1180 department. The divisions created in s. 570.29 are solely to  
 1181 make possible the definite placing of responsibility. The  
 1182 department shall be conducted as a unit in which every employee,  
 1183 including each division director, is assigned a definite  
 1184 workload, and there shall exist between division directors a  
 1185 spirit of cooperative effort to accomplish the work of the  
 1186 department.

1187 Section 37. Subsection (2) of section 570.23, Florida  
 1188 Statutes, is amended to read:

1189 570.23 State Agricultural Advisory Council.—

1190 (2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS;  
 1191 ~~COMPENSATION.~~—The meetings, powers and duties, procedures, and  
 1192 recordkeeping of the State Agricultural Advisory Council, ~~and~~  
 1193 ~~per diem and reimbursement of expenses of council members,~~ shall  
 1194 be governed by the provisions of s. 570.0705 relating to  
 1195 advisory committees established within the department.

1196 Section 38. Subsections (7) through (12) of section  
 1197 570.29, Florida Statutes, are renumbered as subsections (6)  
 1198 through (11), respectively, and present subsection (6) is  
 1199 amended to read:

1200 570.29 Departmental divisions.—The department shall  
 1201 include the following divisions:

1202 ~~(6) Dairy Industry.~~

1203 Section 39. Subsection (2) of section 570.38, Florida  
 1204 Statutes, is amended to read:

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1205           570.38 Animal Industry Technical Council.—  
 1206           (2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS+  
 1207 ~~COMPENSATION.~~—The meetings, powers and duties, procedures, and  
 1208 recordkeeping of the Animal Industry Technical Council, ~~and per~~  
 1209 ~~diem and reimbursement of expenses of council members,~~ shall be  
 1210 governed by the provisions of s. 570.0705 relating to advisory  
 1211 committees established within the department.

1212           Section 40. Paragraph (d) of subsection (3) of section  
 1213 570.382, Florida Statutes, is amended to read:

1214           570.382 Arabian horse racing; breeders' and stallion  
 1215 awards; Arabian Horse Council; horse registration fees; Florida  
 1216 Arabian Horse Racing Promotion Account.—

1217           (3) ARABIAN HORSE COUNCIL.—

1218           (d) Members of the council shall receive no compensation  
 1219 for their services, ~~except that they shall receive per diem and~~  
 1220 ~~travel expenses as provided in s. 112.061 when actually engaged~~  
 1221 ~~in the business of the council.~~

1222           Section 41. Sections 570.40 and 570.41, Florida Statutes,  
 1223 are repealed.

1224           Section 42. Subsection (2) of section 570.42, Florida  
 1225 Statutes, is amended to read:

1226           570.42 Dairy Industry Technical Council.—

1227           (2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS+  
 1228 ~~COMPENSATION.~~—The meetings, powers and duties, procedures, and  
 1229 recordkeeping of the Dairy Industry Technical Council, ~~and per~~  
 1230 ~~diem and reimbursement of expenses of council members,~~ shall be  
 1231 governed by the provisions of s. 570.0705 relating to advisory  
 1232 committees established within the department.

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1233 Section 43. Subsections (2) and (3) of section 570.50,  
 1234 Florida Statutes, are amended, and subsections (6) and (7) are  
 1235 added to that section, to read:

1236 570.50 Division of Food Safety; powers and duties.—The  
 1237 duties of the Division of Food Safety include, but are not  
 1238 limited to:

1239 (2) Conducting those general inspection activities  
 1240 relating to food and food products being processed, held, or  
 1241 offered for sale in this state and enforcing those provisions of  
 1242 chapters 500, 501, 502, ~~503~~, 531, 583, 585, 586, and 601  
 1243 relating to foods as authorized by the department.

1244 (3) Analyzing samples of foods offered for sale in this  
 1245 state as required under chapters 500, 501, 502, ~~503~~, 585, 586,  
 1246 and 601.

1247 (6) Inspecting dairy farms of the state, enforcing those  
 1248 provisions of chapter 502 that are authorized by the department  
 1249 and related to the supervision of milking operations, and  
 1250 enforcing rules adopted under such provisions.

1251 (7) Inspecting milk plants, milk product plants, and  
 1252 plants engaged in the manufacture and distribution of frozen  
 1253 desserts and frozen dessert mixes; analyzing and testing samples  
 1254 of milk, milk products, frozen desserts, and frozen dessert  
 1255 mixes collected by the division; and enforcing those provisions  
 1256 of chapter 502 that are authorized by the department.

1257 Section 44. Subsection (2) of section 570.51, Florida  
 1258 Statutes, is amended to read:

1259 570.51 Director; qualifications; duties.—

1260 (2) The director shall supervise, direct, and coordinate

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1261 the activities of the division and enforce the provisions of  
 1262 chapters 500, 501, 502, ~~503~~, 531, 583, 585, and 601 and any  
 1263 other chapter necessary to carry out the responsibilities of the  
 1264 division.

1265 Section 45. Subsection (2) of section 570.543, Florida  
 1266 Statutes, is amended to read:

1267 570.543 Florida Consumers' Council.—The Florida Consumers'  
 1268 Council in the department is created to advise and assist the  
 1269 department in carrying out its duties.

1270 (2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS+  
 1271 ~~COMPENSATION~~.—The meetings, powers and duties, procedures, and  
 1272 recordkeeping of the Florida Consumers' Council, ~~and per diem~~  
 1273 ~~and reimbursement of expenses of council members~~, shall be  
 1274 governed by the provisions of s. 570.0705 relating to advisory  
 1275 committees established within the department. The council  
 1276 members or chair may call no more than two meetings.

1277 Section 46. Subsection (3) of section 570.954, Florida  
 1278 Statutes, is amended to read:

1279 570.954 Farm-to-fuel initiative.—

1280 ~~(3) The department shall coordinate with and solicit the~~  
 1281 ~~expertise of the state energy office within the Department of~~  
 1282 ~~Environmental Protection when developing and implementing this~~  
 1283 ~~initiative.~~

1284 Section 47. Subsection (2) of section 571.28, Florida  
 1285 Statutes, is amended to read:

1286 571.28 Florida Agricultural Promotional Campaign Advisory  
 1287 Council.—

1288 (2) MEETINGS; POWERS AND DUTIES; PROCEDURES; RECORDS+

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1289 ~~COMPENSATION.~~—The meetings, powers and duties, procedures, and  
 1290 recordkeeping of the Florida Agricultural Promotional Campaign  
 1291 Advisory Council, ~~and per diem and reimbursement of expenses of~~  
 1292 ~~council members,~~ shall be governed by the provisions of s.  
 1293 570.0705 relating to advisory committees established within the  
 1294 department.

1295 Section 48. Subsection (6) of section 573.112, Florida  
 1296 Statutes, is amended to read:

1297 573.112 Advisory council.—

1298 (6) No member or alternate member of the council shall  
 1299 receive a salary, ~~but shall be reimbursed for travel expenses~~  
 1300 ~~while on council business as provided in s. 112.061.~~ The  
 1301 department may employ necessary personnel, including  
 1302 professional and technical services personnel, and fix their  
 1303 compensation and terms of employment and may incur expenses to  
 1304 be paid from moneys collected as herein provided.

1305 Section 49. Subsection (3) of section 576.091, Florida  
 1306 Statutes, is amended to read:

1307 576.091 Fertilizer Technical Council.—

1308 (3) ~~POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS+~~  
 1309 ~~REIMBURSEMENTS.~~—The meetings, powers and duties, procedures, and  
 1310 recordkeeping, ~~and reimbursement of expenses of members and~~  
 1311 ~~alternate members~~ of the council shall be in accordance with the  
 1312 provisions of s. 570.0705 relating to advisory committees  
 1313 established within the department.

1314 Section 50. Subsection (2) of section 580.151, Florida  
 1315 Statutes, is amended to read:

1316 580.151 Commercial Feed Technical Council.—

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1317 (2) POWERS AND DUTIES; PROCEDURES; RECORDS; ~~COMPENSATION.~~—  
 1318 The meetings, powers and duties, procedures, and recordkeeping  
 1319 of the Commercial Feed Technical Council, ~~and per diem and~~  
 1320 ~~reimbursement of expenses of council members,~~ shall be governed  
 1321 by the provisions of s. 570.0705 relating to advisory committees  
 1322 established within the department.

1323 Section 51. Subsection (2) of section 581.186, Florida  
 1324 Statutes, is amended to read:

1325 581.186 Endangered Plant Advisory Council; organization;  
 1326 meetings; powers and duties.—

1327 (2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS;  
 1328 ~~COMPENSATION.~~—The meetings, powers and duties, procedures, and  
 1329 recordkeeping of the Endangered Plant Advisory Council, ~~and per~~  
 1330 ~~diem and reimbursement of expenses of council members,~~ shall be  
 1331 governed by the provisions of s. 570.0705 relating to advisory  
 1332 committees established within the department.

1333 Section 52. Subsection (3) of section 582.30, Florida  
 1334 Statutes, is amended to read:

1335 582.30 Discontinuance of districts; referendum;  
 1336 commissioner's authority.—

1337 (3) In the alternative, upon review and recommendation of  
 1338 the Soil and Water Conservation Council regarding the continued  
 1339 viability of a district, the Commissioner of Agriculture may  
 1340 dissolve or discontinue such district if the commissioner  
 1341 certifies that the continued operation of the district is not  
 1342 administratively practicable and feasible. If a district has  
 1343 failed to comply with any of the audit and financial reporting  
 1344 requirements of chapter 189, the commissioner, after review and



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1345 confirmation by the department's inspector general, may certify  
 1346 dissolution or discontinuance of such district without prior  
 1347 review and recommendation of the Soil and Water Conservation  
 1348 Council. Notice of such proposed certification of dissolution or  
 1349 discontinuance shall be published once a week for 2 weeks in a  
 1350 newspaper of general circulation within the county or counties  
 1351 wherein the district is located, stating the name of the  
 1352 district and a general description of the territory included in  
 1353 the district, and requiring that any objections to the proposed  
 1354 dissolution or any claims against the assets of the district  
 1355 must be filed with the department clerk not later than 60 days  
 1356 following the date of last publication.

1357 Section 53. Subsection (3) of section 586.161, Florida  
 1358 Statutes, is amended to read:

1359 586.161 Honeybee Technical Council.—

1360 (3) MEETINGS; POWERS AND DUTIES; PROCEDURES; RECORDS;  
 1361 ~~COMPENSATION.~~—The meetings, powers and duties, procedures, and  
 1362 recordkeeping of the Honeybee Technical Council, ~~and per diem~~  
 1363 ~~and reimbursement of expenses of council members,~~ shall be  
 1364 governed by the provisions of s. 570.0705 relating to advisory  
 1365 committees established within the department.

1366 Section 54. Section 590.015, Florida Statutes, is amended  
 1367 to read:

1368 590.015 Definitions.—As used in this chapter, the term:

1369 (1) "Broadcast burning" means the burning of agricultural  
 1370 or natural vegetation by allowing fire to move across a  
 1371 predetermined area of land. The term does not include the  
 1372 burning of vegetative debris that is piled or stacked.

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1373           ~~(2)~~(1) "Division" means the Division of Forestry of the  
1374 Department of Agriculture and Consumer Services.

1375           ~~(3)~~(2) "Fire management services" means presuppression  
1376 fireline plowing, prescribed burning assistance, contract  
1377 prescribed burning, prescribed and wildfire management training,  
1378 and other activities associated with prevention, detection, and  
1379 suppression of wildfires.

1380           ~~(4)~~(3) "Fuel reduction" means the application of  
1381 techniques that reduce vegetative fuels, and may include  
1382 prescribed burning, manual and mechanical clearing, and the use  
1383 of herbicides.

1384           (5) "Open burning" means any outdoor fire or open  
1385 combustion of material that produces visible emissions.

1386           ~~(6)~~(4) "Wildfire" means any vegetative fire that threatens  
1387 to destroy life, property, or natural resources.

1388           ~~(7)~~(5) "Wild land" means any public or private managed or  
1389 unmanaged forest, urban/interface, pasture or range land,  
1390 recreation lands, or any other land at risk of wildfire.

1391           Section 55. Paragraph (d) of subsection (1) and subsection  
1392 (4) of section 590.02, Florida Statutes, are amended, and  
1393 subsections (9) and (10) are added to that section, to read:

1394           590.02 Division powers, authority, and duties; liability;  
1395 building structures; Florida Center for Wildfire and Forest  
1396 Resources Management Training.—

1397           (1) The division has the following powers, authority, and  
1398 duties:

1399           (d) To appoint center managers, forest area supervisors,  
1400 forestry program administrators, a forest protection bureau

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1401 chief, a forest protection assistant bureau chief, a field  
 1402 operations bureau chief, deputy chiefs of field operations,  
 1403 district managers, forest operations administrators, senior  
 1404 forest rangers, investigators, forest rangers, firefighter  
 1405 rotorcraft pilots, and other employees who may, at the  
 1406 division's discretion, be certified as forestry firefighters  
 1407 pursuant to s. 633.35(4). Other provisions of law  
 1408 notwithstanding, center managers, district managers, forest  
 1409 protection assistant bureau chief, and deputy chiefs of field  
 1410 operations shall have Selected Exempt Service status in the  
 1411 state personnel designation;

1412 (4) (a) The department may build structures,  
 1413 notwithstanding chapters 216 and 255, not to exceed a cost of  
 1414 \$50,000 per structure from existing resources on forest lands,  
 1415 federal excess property, and unneeded existing structures. These  
 1416 structures must meet all applicable building codes.

1417 (b) Notwithstanding s. 553.80(1), the department shall  
 1418 exclusively enforce the Florida Building Code as it pertains to  
 1419 wildfire and law enforcement facilities under the jurisdiction  
 1420 of the department.

1421 (9) (a) Notwithstanding ss. 273.055 and 287.16, the  
 1422 department may retain, transfer, warehouse, bid, destroy, scrap,  
 1423 or otherwise dispose of surplus equipment and vehicles that are  
 1424 used for wildland firefighting.

1425 (b) All money received from the disposition of state-owned  
 1426 equipment and vehicles that are used for wildland firefighting  
 1427 shall be retained by the department. Money received pursuant to  
 1428 this section is appropriated for and may be disbursed for the

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1429 acquisition of exchange and surplus equipment used for wildland  
 1430 firefighting, and for all necessary operating expenditures  
 1431 related to such equipment, in the same fiscal year and the  
 1432 fiscal year following the disposition. The department shall  
 1433 maintain records of the accounts into which the money is  
 1434 deposited.

1435 (10) (a) The division has exclusive authority to require  
 1436 and issue authorizations for broadcast burning and agricultural  
 1437 and silvicultural pile burning. An agency, commission,  
 1438 department, county, municipality, or other political subdivision  
 1439 of the state may not adopt laws, regulations, rules, or policies  
 1440 pertaining to broadcast burning or agricultural and  
 1441 silvicultural pile burning unless an emergency order is declared  
 1442 in accordance with s. 252.38(3).

1443 (b) The division may delegate to a county or municipality  
 1444 its authority, as delegated by the Department of Environmental  
 1445 Protection pursuant to ss. 403.061(28) and 403.081, to require  
 1446 and issue authorizations for the burning of yard trash and  
 1447 debris from land clearing operations in accordance with s.  
 1448 590.125(6).

1449 Section 56. Section 590.125, Florida Statutes, is amended  
 1450 to read:

1451 590.125 Open burning authorized by the division.—

1452 (1) DEFINITIONS.—As used in this section, the term:

1453 (a) "Certified pile burner" means an individual who  
 1454 successfully completes the division's pile burning certification  
 1455 program and possesses a valid pile burner certification number.

1456 ~~"Prescribed burning" means the controlled application of fire in~~

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1457 ~~accordance with a written prescription for vegetative fuels~~  
 1458 ~~under specified environmental conditions while following~~  
 1459 ~~appropriate precautionary measures that ensure that the fire is~~  
 1460 ~~confined to a predetermined area to accomplish the planned fire~~  
 1461 ~~or land-management objectives.~~

1462 (b) "Certified prescribed burn manager" means an  
 1463 individual who successfully completes the certified prescribed  
 1464 burning certification program of the division and possesses a  
 1465 valid certification number.

1466 ~~(c)(d)~~ "Extinguished" means that ~~no spreading flame for:~~  
 1467 1. Wildland ~~Wild land~~ burning or certified prescribed  
 1468 burning, and no spreading flames ~~visible flame, smoke, or~~  
 1469 emissions for vegetative land-clearing debris burning, exist.

1470 2. Vegetative land-clearing debris burning or pile  
 1471 burning, no visible flames exist.

1472 3. Vegetative land-clearing debris burning or pile burning  
 1473 in an area designated as smoke sensitive by the division, no  
 1474 visible flames, smoke, or emissions exist.

1475 (d) "Land-clearing operation" means the uprooting or  
 1476 clearing of vegetation in connection with the construction of  
 1477 buildings and rights-of-way, land development, and mineral  
 1478 operations. The term does not include the clearing of yard  
 1479 trash.

1480 (e) "Pile burning" means the burning of silvicultural,  
 1481 agricultural, or land-clearing and tree-cutting debris  
 1482 originating onsite, which is stacked together in a round or  
 1483 linear fashion, including, but not limited to, a windrow.

1484 (f) "Prescribed burning" means the controlled application

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1485 of fire by broadcast burning in accordance with a written  
 1486 prescription for vegetative fuels under specified environmental  
 1487 conditions, while following appropriate precautionary measures  
 1488 that ensure that the fire is confined to a predetermined area to  
 1489 accomplish the planned fire or land-management objectives.

1490 (g)-(e) "Prescription" means a written plan establishing  
 1491 the criteria necessary for starting, controlling, and  
 1492 extinguishing a prescribed burn.

1493 (h) "Yard trash" means vegetative matter resulting from  
 1494 landscaping and yard maintenance operations and other such  
 1495 routine property cleanup activities. The term includes materials  
 1496 such as leaves, shrub trimmings, grass clippings, brush, and  
 1497 palm fronds.

1498 (2) NONCERTIFIED BURNING.—

1499 (a) Persons may be authorized to burn wild land or  
 1500 vegetative land-clearing debris in accordance with this  
 1501 subsection if:

1502 1. There is specific consent of the landowner or his or  
 1503 her designee;

1504 2. Authorization has been obtained from the division or  
 1505 its designated agent before starting the burn;

1506 3. There are adequate firebreaks at the burn site and  
 1507 sufficient personnel and firefighting equipment for the control  
 1508 of the fire;

1509 4. The fire remains within the boundary of the authorized  
 1510 area;

1511 5. An authorized person ~~Someone~~ is present at the burn  
 1512 site until the fire is extinguished;

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1513           6. The division does not cancel the authorization; and

1514           7. The division determines that air quality and fire  
1515 danger are favorable for safe burning.

1516           (b) A person who burns wild land or vegetative land-  
1517 clearing debris in a manner that violates any requirement of  
1518 this subsection commits a misdemeanor of the second degree,  
1519 punishable as provided in s. 775.082 or s. 775.083.

1520           (3) CERTIFIED PRESCRIBED BURNING; LEGISLATIVE FINDINGS AND  
1521 PURPOSE.—

1522           (a) The application of prescribed burning is a land  
1523 management tool that benefits the safety of the public, the  
1524 environment, and the economy of the state. The Legislature finds  
1525 that:

1526           1. Prescribed burning reduces vegetative fuels within wild  
1527 land areas. Reduction of the fuel load reduces the risk and  
1528 severity of wildfire, thereby reducing the threat of loss of  
1529 life and property, particularly in urban areas.

1530           2. Most of Florida's natural communities require periodic  
1531 fire for maintenance of their ecological integrity. Prescribed  
1532 burning is essential to the perpetuation, restoration, and  
1533 management of many plant and animal communities. Significant  
1534 loss of the state's biological diversity will occur if fire is  
1535 excluded from fire-dependent systems.

1536           3. Forestland and rangeland constitute significant  
1537 economic, biological, and aesthetic resources of statewide  
1538 importance. Prescribed burning on forestland prepares sites for  
1539 reforestation, removes undesirable competing vegetation,  
1540 expedites nutrient cycling, and controls or eliminates certain

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1541 forest pathogens. On rangeland, prescribed burning improves the  
 1542 quality and quantity of herbaceous vegetation necessary for  
 1543 livestock production.

1544 4. The state purchased hundreds of thousands of acres of  
 1545 land for parks, preserves, wildlife management areas, forests,  
 1546 and other public purposes. The use of prescribed burning for  
 1547 management of public lands is essential to maintain the specific  
 1548 resource values for which these lands were acquired.

1549 5. A public education program is necessary to make  
 1550 citizens and visitors aware of the public safety, resource, and  
 1551 economic benefits of prescribed burning.

1552 6. Proper training in the use of prescribed burning is  
 1553 necessary to ensure maximum benefits and protection for the  
 1554 public.

1555 7. As Florida's population continues to grow, pressures  
 1556 from liability issues and nuisance complaints inhibit the use of  
 1557 prescribed burning. Therefore, the division is urged to maximize  
 1558 the opportunities for prescribed burning conducted during its  
 1559 daytime and nighttime authorization process.

1560 (b) Certified prescribed burning pertains only to  
 1561 broadcast burning for purposes of silviculture, wildland fire  
 1562 hazard reduction, wildlife management, ecological maintenance  
 1563 and restoration, and range and pasture management. It must be  
 1564 conducted in accordance with this subsection and:

1565 1. May be accomplished only when a certified prescribed  
 1566 burn manager is present on site with a copy of the prescription  
 1567 from ignition of the burn to its completion.

1568 2. Requires that a written prescription be prepared before



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1569 receiving authorization to burn from the division.

1570 3. Requires that the specific consent of the landowner or  
 1571 his or her designee be obtained before requesting an  
 1572 authorization.

1573 4. Requires that an authorization to burn be obtained from  
 1574 the division before igniting the burn.

1575 5. Requires that there be adequate firebreaks at the burn  
 1576 site and sufficient personnel and firefighting equipment for the  
 1577 control of the fire.

1578 6. Is considered to be in the public interest and does not  
 1579 constitute a public or private nuisance when conducted under  
 1580 applicable state air pollution statutes and rules.

1581 7. Is considered to be a property right of the property  
 1582 owner if vegetative fuels are burned as required in this  
 1583 subsection.

1584 (c) Neither a property owner nor his or her agent is  
 1585 liable pursuant to s. 590.13 for damage or injury caused by the  
 1586 fire or resulting smoke or considered to be in violation of  
 1587 subsection (2) for burns conducted in accordance with this  
 1588 subsection unless gross negligence is proven.

1589 (d) Any certified burner who violates this section commits  
 1590 a misdemeanor of the second degree, punishable as provided in s.  
 1591 775.082 or s. 775.083.

1592 (e) The division shall adopt rules for the use of  
 1593 prescribed burning and for certifying and decertifying certified  
 1594 prescribed burn managers based on their past experience,  
 1595 training, and record of compliance with this section.

1596 (4) CERTIFIED PILE BURNING.—

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1597           (a) Certified pile burning pertains to the disposal of  
 1598 piled, naturally occurring debris from an agricultural,  
 1599 silvicultural, or temporary land-clearing operation. A land-  
 1600 clearing operation is temporary if it operates for 6 months or  
 1601 less. Certified pile burning must be conducted in accordance  
 1602 with the following:

1603           1. A certified pile burner must ensure, before ignition,  
 1604 that the piles are properly placed and that the content of the  
 1605 piles is conducive to efficient burning.

1606           2. A certified pile burner must ensure that the piles are  
 1607 properly extinguished no later than 1 hour after sunset. If the  
 1608 burn is conducted in an area designated by the division as smoke  
 1609 sensitive, a certified pile burner must ensure that the piles  
 1610 are properly extinguished at least 1 hour before sunset.

1611           3. A written pile burning plan must be prepared before  
 1612 receiving authorization from the division to burn.

1613           4. The specific consent of the landowner or his or her  
 1614 agent must be obtained before requesting authorization to burn.

1615           5. An authorization to burn must be obtained from the  
 1616 division or its designated agent before igniting the burn.

1617           6. There must be adequate firebreaks and sufficient  
 1618 personnel and firefighting equipment at the burn site to control  
 1619 the fire.

1620           (b) If a burn is conducted in accordance with paragraph  
 1621 (a), the property owner and his or her agent are not liable  
 1622 under s. 590.13 for damage or injury caused by the fire or  
 1623 resulting smoke, and are not in violation of subsection (2),  
 1624 unless gross negligence is proven.

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1625           (c) A certified pile burner who violates this subsection  
 1626 commits a misdemeanor of the second degree, punishable as  
 1627 provided in s. 775.082 or s. 775.083.

1628           (d) The division shall adopt rules regulating certified  
 1629 pile burning. The rules shall include procedures and criteria  
 1630 for certifying and decertifying certified pile burn managers  
 1631 based on past experience, training, and record of compliance  
 1632 with this section.

1633           (5)-(4) WILDFIRE HAZARD REDUCTION TREATMENT BY THE  
 1634 DIVISION.—The division may conduct fuel reduction initiatives,  
 1635 including, but not limited to, burning and mechanical and  
 1636 chemical treatment, on any area of wild land within the state  
 1637 which is reasonably determined to be in danger of wildfire in  
 1638 accordance with the following procedures:

1639           (a) Describe the areas that will receive fuels treatment  
 1640 to the affected local governmental entity.

1641           (b) Publish a treatment notice, including a description of  
 1642 the area to be treated, in a conspicuous manner in at least one  
 1643 newspaper of general circulation in the area of the treatment  
 1644 not less than 10 days before the treatment.

1645           (c) Prepare, and send ~~the county tax collector shall~~  
 1646 ~~include with the annual tax statement,~~ a notice to be sent to  
 1647 all landowners in each area ~~township~~ designated by the division  
 1648 as a wildfire hazard area. The notice must describe particularly  
 1649 the area to be treated and the tentative date or dates of the  
 1650 treatment and must list the reasons for and the expected  
 1651 benefits from the wildfire hazard reduction.

1652           (d) Consider any landowner objections to the fuels

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1653 treatment of his or her property. The landowner may apply to the  
 1654 director of the division for a review of alternative methods of  
 1655 fuel reduction on the property. If the director or his or her  
 1656 designee does not resolve the landowner objection, the director  
 1657 shall convene a panel made up of the local forestry unit  
 1658 manager, the fire chief of the jurisdiction, and the affected  
 1659 county or city manager, or any of their designees. If the  
 1660 panel's recommendation is not acceptable to the landowner, the  
 1661 landowner may request further consideration by the Commissioner  
 1662 of Agriculture or his or her designee and shall thereafter be  
 1663 entitled to an administrative hearing pursuant to the provisions  
 1664 of chapter 120.

1665 (6) DIVISION APPROVAL OF LOCAL GOVERNMENT OPEN BURNING  
 1666 AUTHORIZATION PROGRAMS.—

1667 (a) A county or municipality may exercise the division's  
 1668 authority, if delegated by the division under this subsection,  
 1669 to issue authorizations for the burning of yard trash or debris  
 1670 from land-clearing operations. A county's or municipality's  
 1671 existing or proposed open burning authorization program must:

1672 1. Be approved by the division. The division may not  
 1673 approve a program if it fails to meet the requirements of  
 1674 subsections (2) and (4) and any rules adopted under those  
 1675 subsections.

1676 2. Provide by ordinance or local law the requirements for  
 1677 obtaining and performing a burn authorization that complies with  
 1678 subsections (2) and (4) and any rules adopted under those  
 1679 subsections.

1680 3. Provide for the enforcement of the program's

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1681 requirements.

1682 4. Provide financial, personnel, and other resources  
 1683 needed to carry out the program.

1684 (b) If the division determines that a county's or  
 1685 municipality's open burning authorization program does not  
 1686 comply with subsections (2) and (4) and any rules adopted under  
 1687 those subsections, the division shall require the county or  
 1688 municipality to take necessary corrective actions within 90 days  
 1689 after receiving notice from the division of its determination.

1690 1. If the county or municipality fails to take the  
 1691 necessary corrective actions within the required period, the  
 1692 division shall resume administration of the open burning  
 1693 authorization program in the county or municipality and the  
 1694 county or municipality shall cease administration of its  
 1695 program.

1696 2. Each county and municipality administering an open  
 1697 burning authorization program must cooperate with and assist the  
 1698 division in carrying out the division's powers, duties, and  
 1699 functions.

1700 3. A person who violates the requirements of a county's or  
 1701 municipality's open burning authorization program, as provided  
 1702 by ordinance or local law enacted pursuant to this subsection,  
 1703 commits a violation of this chapter, punishable as provided in  
 1704 s. 590.14.

1705 (7)-(5) DUTIES OF AGENCIES.—The Department of Education  
 1706 shall incorporate, where feasible and appropriate, the issues of  
 1707 fuels treatment, including prescribed burning, into its  
 1708 educational materials.

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1709 Section 57. Section 590.14, Florida Statutes, is amended  
 1710 to read:

1711 590.14 Notice of violation; penalties; legislative  
 1712 intent.-

1713 (1) If a division employee determines that a person has  
 1714 violated chapter 589, ~~or~~ this chapter, or any rule adopted by  
 1715 the division to administer provisions of law conferring duties  
 1716 upon the division, the division employee ~~he or she~~ may issue a  
 1717 notice of violation indicating the statute or rule violated.  
 1718 This notice will be filed with the division and a copy forwarded  
 1719 to the appropriate law enforcement entity for further action if  
 1720 necessary.

1721 (2) In addition to any penalties provided by law, any  
 1722 person who causes a wildfire or permits any authorized fire to  
 1723 escape the boundaries of the authorization or to burn past the  
 1724 time of the authorization is liable for the payment of all  
 1725 reasonable costs and expenses incurred in suppressing the fire  
 1726 or \$150, whichever is greater. All costs and expenses incurred  
 1727 by the division shall be payable to the division. When such  
 1728 costs and expenses are not paid within 30 days after demand, the  
 1729 division may take proper legal proceedings for the collection of  
 1730 the costs and expenses. Those costs incurred by an agency acting  
 1731 at the division's direction are recoverable by that agency.

1732 (3) The department may also impose an administrative fine,  
 1733 not to exceed \$1,000 per violation of any section of chapter 589  
 1734 or this chapter or violation of any rule adopted by the division  
 1735 to administer provisions of law conferring duties upon the  
 1736 division. The fine shall be based upon the degree of damage, the

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1737 prior violation record of the person, and whether the person  
 1738 knowingly provided false information to obtain an authorization.  
 1739 The fines shall be deposited in the Incidental Trust Fund of the  
 1740 division.

1741 (4) A person commits a misdemeanor of the second degree,  
 1742 punishable as provided in s. 775.082 or s. 775.083, if the  
 1743 person:

1744 (a) Fails to comply with any rule or order adopted by the  
 1745 division to administer provisions of law conferring duties upon  
 1746 the division; or

1747 (b) Knowingly makes any false statement or representation  
 1748 in any application, record, plan, or other document required by  
 1749 this chapter or any rules adopted under this chapter.

1750 (5) It is the intent of the Legislature that a penalty  
 1751 imposed by a court under subsection (4) be of a severity that  
 1752 ensures immediate and continued compliance with this section.

1753 (6)-(4) The penalties provided in this section shall extend  
 1754 to both the actual violator and the person or persons, firm, or  
 1755 corporation causing, directing, or permitting the violation.

1756 Section 58. Subsection (4) of section 597.005, Florida  
 1757 Statutes, is amended to read:

1758 597.005 Aquaculture Review Council.—

1759 ~~(4) EXPENSES; PER DIEM. Members of the council shall~~  
 1760 ~~receive expenses and per diem for travel, including attendance~~  
 1761 ~~at meetings, as allowed state officers and employees pursuant to~~  
 1762 ~~s. 112.061.~~

1763 Section 59. Subsection (2) of section 599.002, Florida  
 1764 Statutes, is amended to read:

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1765 599.002 Viticulture Advisory Council.—

1766 (2) The meetings, powers and duties, procedures, and  
 1767 recordkeeping of the Viticulture Advisory Council, ~~and per diem~~  
 1768 ~~and reimbursement of expenses of council members,~~ shall be  
 1769 governed by the provisions of s. 570.0705 relating to advisory  
 1770 committees established within the department.

1771 Section 60. Subsection (4) is added to section 616.17,  
 1772 Florida Statutes, to read:

1773 616.17 Minimum exhibits.—

1774 (4) An authority or fair association as defined in this  
 1775 chapter that provides any of the exhibits set forth in  
 1776 subsection (1) or other exhibits or concessions, whether such  
 1777 exhibits or concessions are provided directly or through an  
 1778 agreement with a third party, is not subject to criminal  
 1779 penalties or civil damages arising out of the personal injury or  
 1780 death of any person, or property damage, resulting from such  
 1781 exhibits or concessions. This subsection does not apply if the  
 1782 personal injury, death, or property damage was due to an act or  
 1783 omission committed by the authority or fair association in bad  
 1784 faith, with malicious purpose, or with wanton and willful  
 1785 disregard of human rights, safety, or property. This subsection  
 1786 does not apply to third parties providing exhibits or  
 1787 concessions.

1788 Section 61. Paragraph (a) of subsection (1) and subsection  
 1789 (3) of section 616.252, Florida Statutes, are amended to read:

1790 616.252 Florida State Fair Authority; membership; number,  
 1791 terms, compensation.—

1792 (1) (a) The authority shall be composed of 22 ~~21~~ members.



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1793 The Commissioner of Agriculture, or her or his designee, shall  
 1794 serve as a voting member. There shall also be a member who is  
 1795 the member of the Board of County Commissioners of Hillsborough  
 1796 County representing the county commission district in which the  
 1797 Florida State Fairgrounds is located, who shall serve as a  
 1798 voting member. There shall also be an appointed youth member who  
 1799 is an active member of the Florida Future Farmers of America or  
 1800 a 4-H Club, who shall serve as a nonvoting member. The  
 1801 Commissioner of Agriculture shall appoint each other member of  
 1802 the authority. Each member appointed by the Commissioner of  
 1803 Agriculture shall serve at the pleasure of the Commissioner of  
 1804 Agriculture. The term of each member appointed by the  
 1805 Commissioner of Agriculture shall be 4 years, but the term of  
 1806 the nonvoting youth member shall be for 1 year ~~except, to~~  
 1807 ~~provide staggered terms, 9 of the members shall be initially~~  
 1808 ~~appointed for a 2-year term and 10 of the members shall be~~  
 1809 ~~initially appointed for a 3-year term.~~ Members may be appointed  
 1810 for more than one term. Any vacancy shall be filled for the  
 1811 remainder of the unexpired term pursuant to the method provided  
 1812 in this section for appointment. Six of the members may be from  
 1813 Hillsborough County. The Commissioner of Agriculture shall  
 1814 appoint and set the compensation of an executive director. The  
 1815 executive director shall serve at the pleasure of the  
 1816 Commissioner of Agriculture.

1817 (3) Members of the authority are ~~shall~~ not ~~be~~ entitled to  
 1818 compensation for their services as members and may not, ~~but~~  
 1819 ~~shall~~ be reimbursed for travel expenses. Except for the  
 1820 nonvoting youth member, each member as provided in s. 112.061

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1821 ~~and~~ may be compensated for any special or full-time service  
 1822 performed in the authority's ~~its~~ behalf as officers or agents of  
 1823 the authority.

1824 Section 62. Paragraph (c) of subsection (2) of section  
 1825 812.014, Florida Statutes, is amended to read:

1826 812.014 Theft.—

1827 (2)

1828 (c) It is grand theft of the third degree and a felony of  
 1829 the third degree, punishable as provided in s. 775.082, s.  
 1830 775.083, or s. 775.084, if the property stolen is:

- 1831 1. Valued at \$300 or more, but less than \$5,000.
- 1832 2. Valued at \$5,000 or more, but less than \$10,000.
- 1833 3. Valued at \$10,000 or more, but less than \$20,000.
- 1834 4. A will, codicil, or other testamentary instrument.
- 1835 5. A firearm.
- 1836 6. A motor vehicle, except as provided in paragraph (a).
- 1837 7. Any commercially farmed animal, including any animal of  
 1838 the equine, bovine, or swine class, ~~or other grazing animal;~~ a  
 1839 bee colony of a registered beekeeper; ~~and including~~ aquaculture  
 1840 species raised at a certified aquaculture facility. If the  
 1841 property stolen is aquaculture species raised at a certified  
 1842 aquaculture facility, then a \$10,000 fine shall be imposed.
- 1843 8. Any fire extinguisher.
- 1844 9. Any amount of citrus fruit consisting of 2,000 or more  
 1845 individual pieces of fruit.
- 1846 10. Taken from a designated construction site identified  
 1847 by the posting of a sign as provided for in s. 810.09(2)(d).
- 1848 11. Any stop sign.

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1849 | 12. Anhydrous ammonia.

1850 |  
 1851 | However, if the property is stolen within a county that is  
 1852 | subject to a state of emergency declared by the Governor under  
 1853 | chapter 252, the property is stolen after the declaration of  
 1854 | emergency is made, and the perpetration of the theft is  
 1855 | facilitated by conditions arising from the emergency, the  
 1856 | offender commits a felony of the second degree, punishable as  
 1857 | provided in s. 775.082, s. 775.083, or s. 775.084, if the  
 1858 | property is valued at \$5,000 or more, but less than \$10,000, as  
 1859 | provided under subparagraph 2., or if the property is valued at  
 1860 | \$10,000 or more, but less than \$20,000, as provided under  
 1861 | subparagraph 3. As used in this paragraph, the term "conditions  
 1862 | arising from the emergency" means civil unrest, power outages,  
 1863 | curfews, voluntary or mandatory evacuations, or a reduction in  
 1864 | the presence of or the response time for first responders or  
 1865 | homeland security personnel. For purposes of sentencing under  
 1866 | chapter 921, a felony offense that is reclassified under this  
 1867 | paragraph is ranked one level above the ranking under s.  
 1868 | 921.0022 or s. 921.0023 of the offense committed.

1869 | Section 63. Paragraphs (f) and (g) of subsection (1) of  
 1870 | section 812.015, Florida Statutes, are amended to read:

1871 | 812.015 Retail and farm theft; transit fare evasion;  
 1872 | mandatory fine; alternative punishment; detention and arrest;  
 1873 | exemption from liability for false arrest; resisting arrest;  
 1874 | penalties.—

1875 | (1) As used in this section:

1876 | (f) "Farmer" means a person who is engaging in the growing

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1877 or producing of farm produce, milk products, honey, eggs, or  
 1878 meat, either part time or full time, for personal consumption or  
 1879 for sale and who is the owner or lessee of the land or a person  
 1880 designated in writing by the owner or lessee to act as her or  
 1881 his agent. No person defined as a farm labor contractor pursuant  
 1882 to s. 450.28 shall be designated to act as an agent for purposes  
 1883 of this section.

1884 (g) "Farm theft" means the unlawful taking possession of  
 1885 any items that are grown or produced on land owned, rented, or  
 1886 leased by another person. The term includes the unlawful taking  
 1887 possession of equipment and associated materials used to grow or  
 1888 produce farm products as defined in s. 823.14(3)(c).

1889 Section 64. (1) The Division of Forestry of the  
 1890 Department of Agriculture and Consumer Services is renamed the  
 1891 "Florida Forest Service."

1892 (2) The Legislature recognizes that there is a need to  
 1893 conform the Florida Statutes to the organizational changes in  
 1894 this act and that there may be a need to resolve apparent  
 1895 conflicts with any other legislation that has been or may be  
 1896 enacted during the 2011 Regular Session or an extension thereof.  
 1897 Therefore, in the interim between this act becoming a law and  
 1898 the 2012 Regular Session of the Legislature or an earlier  
 1899 special session addressing this issue, the Division of Statutory  
 1900 Revision shall provide the relevant substantive committees of  
 1901 the Senate and the House of Representatives with assistance,  
 1902 upon request, to enable such committees to prepare draft  
 1903 legislation to conform the Florida Statutes and any legislation  
 1904 enacted during 2011 to the provisions of this act.

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1905 Section 65. Paragraph (h) of subsection (2) of section  
 1906 20.14, Florida Statutes, is amended to read:

1907 20.14 Department of Agriculture and Consumer Services.—  
 1908 There is created a Department of Agriculture and Consumer  
 1909 Services.

1910 (2) The following divisions of the Department of  
 1911 Agriculture and Consumer Services are established:

1912 (h) Florida Forest Service ~~Forestry~~.

1913 Section 66. Subsections (4) and (11) of section 261.03,  
 1914 Florida Statutes, are amended to read:

1915 261.03 Definitions.—As used in this chapter, the term:

1916 (4) "Division" means the Florida Forest Service ~~Division~~  
 1917 ~~of Forestry of the Department of Agriculture and Consumer~~  
 1918 ~~Services~~.

1919 (11) "Trust fund" means the Incidental Trust Fund of the  
 1920 Florida Forest Service ~~Division of Forestry of the Department of~~  
 1921 ~~Agriculture and Consumer Services~~.

1922 Section 67. Subsection (8) of section 570.29, Florida  
 1923 Statutes, is amended to read:

1924 570.29 Departmental divisions.—The department shall  
 1925 include the following divisions:

1926 (8) Florida Forest Service ~~Forestry~~.

1927 Section 68. Section 570.548, Florida Statutes, is amended  
 1928 to read:

1929 570.548 Florida Forest Service ~~Division of Forestry~~;  
 1930 powers and duties.—The duties of the Florida Forest Service  
 1931 ~~Division of Forestry~~ include, but are not limited to,  
 1932 administering and enforcing those powers and responsibilities of

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1933 the Florida Forest Service ~~division~~ prescribed in chapters 589,  
 1934 590, and 591 and ~~the~~ rules adopted under those chapters pursuant  
 1935 ~~thereto~~ and in other forest fire, forest protection, and forest  
 1936 management laws of this state.

1937 Section 69. Section 570.549, Florida Statutes, is amended  
 1938 to read:

1939 570.549 Director; duties.—

1940 (1) The director of the Florida Forest Service ~~Division of~~  
 1941 ~~Forestry~~ shall be appointed by the commissioner and shall serve  
 1942 at the commissioner's pleasure.

1943 (2) ~~It shall be the duty of~~ The director shall ~~of this~~  
 1944 ~~division to~~ direct and supervise the overall operation of the  
 1945 Florida Forest Service ~~division~~ and ~~to~~ exercise such other  
 1946 powers and duties as authorized by the department.

1947 Section 70. Subsection (1) of section 570.903, Florida  
 1948 Statutes, is amended to read:

1949 570.903 Direct-support organization.—

1950 (1) When the Legislature authorizes the establishment of a  
 1951 direct-support organization to provide assistance for the  
 1952 museums, the Florida Agriculture in the Classroom Program, the  
 1953 Florida State Collection of Arthropods, the Friends of the  
 1954 Florida State Forests Program of the Florida Forest Service  
 1955 ~~Division of Forestry~~, and the Forestry Arson Alert Program, and  
 1956 other programs of the department, the following provisions shall  
 1957 govern the creation, use, powers, and duties of the direct-  
 1958 support organization:—

1959 (a) The department shall enter into a memorandum or letter  
 1960 of agreement with the direct-support organization, which shall

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1961 specify the approval of the department, the powers and duties of  
 1962 the direct-support organization, and rules with which the  
 1963 direct-support organization must ~~shall~~ comply.

1964 (b) The department may permit, without charge, appropriate  
 1965 use of property, facilities, and personnel of the department by  
 1966 a direct-support organization, subject to ~~the provisions of~~ ss.  
 1967 570.902 and 570.903. The use shall be directly in keeping with  
 1968 the approved purposes of the direct-support organization and may  
 1969 ~~shall~~ not be made at times or places that would unreasonably  
 1970 interfere with opportunities for the general public to use  
 1971 department facilities for established purposes.

1972 (c) The department shall prescribe by contract or by rule  
 1973 conditions with which a direct-support organization must ~~shall~~  
 1974 comply in order to use property, facilities, or personnel of the  
 1975 department or museum. Such rules shall provide for budget and  
 1976 audit review and oversight by the department.

1977 (d) The department may ~~shall~~ not permit the use of  
 1978 property, facilities, or personnel of the museum, department, or  
 1979 designated program by a direct-support organization that ~~which~~  
 1980 does not provide equal employment opportunities to all persons  
 1981 regardless of race, color, religion, sex, age, or national  
 1982 origin.

1983 Section 71. Subsection (1) of section 590.015, Florida  
 1984 Statutes, is amended to read:

1985 590.015 Definitions.—As used in this chapter, the term:

1986 (1) "Division" means the Florida Forest Service ~~Division~~  
 1987 ~~of Forestry of the Department of Agriculture and Consumer~~  
 1988 ~~Services.~~

ENROLLED

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1989           Section 72. The sum of \$744,000 in nonrecurring funds is  
 1990 appropriated to the Department of Agriculture and Consumer  
 1991 Services from the Florida Forever Trust Fund for the 2011-2012  
 1992 fiscal year in the Fixed Capital Outlay-Agency Managed-Land  
 1993 Management appropriation category pursuant to s. 259.105(3)(f),  
 1994 Florida Statutes.

1995           Section 73. This act shall take effect July 1, 2011.