

Tab 1	SM 814 by Gruters; (Identical to H 00581) Supplemental Nutrition Assistance Program/Soft Drinks						
767048	D	S	RCS	AG, Gruters	Delete everything after	03/13 05:18 PM	
Tab 2	SB 902 by Thompson; (Identical to H 01241) Safety Standards for Amusement Rides						
733156	A	S	L RCS	AG, Thompson	Delete L.348 - 349:	03/13 05:18 PM	
Tab 3	SB 904 by Thompson; (Identical to H 01243) Public Records/Active Amusement Ride Investigation						
Tab 4	SB 1056 by Gruters; (Identical to H 00959) Dosage Form Animal Health Products						
Tab 5	SB 1164 by Collins; (Identical to H 01279) Department of Agriculture and Consumer Services						
Tab 6	SB 1166 by Collins; (Identical to H 01215) Public Records/Investigators of the Department of Agriculture and Consumer Services						
Tab 7	SB 1172 by Calatayud; (Similar to H 01555) Hunger-Free Campus Pilot Program						
281446	A	S	L RCS	AG, Rouson	Delete L.45:	03/14 09:07 AM	
Tab 8	SB 1268 by Rouson; (Identical to H 01195) Urban Agriculture Pilot Projects						

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

AGRICULTURE
Senator Collins, Chair
Senator Boyd, Vice Chair

MEETING DATE: Monday, March 13, 2023
TIME: 3:30—5:30 p.m.
PLACE: 301 Senate Building

MEMBERS: Senator Collins, Chair; Senator Boyd, Vice Chair; Senators Baxley, Berman, Grall, Mayfield, Rouson, Simon, and Thompson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SM 814 Gruters (Identical HM 581)	Supplemental Nutrition Assistance Program/Soft Drinks; Urges Congress to prohibit the use of Supplemental Nutrition Assistance Program benefits to purchase soft drinks, etc. AG 03/13/2023 Fav/CS RC	Fav/CS Yeas 8 Nays 0
2	SB 902 Thompson (Identical H 1241, Compare H 1243, Linked S 904)	Safety Standards for Amusement Rides; Citing this act as the "Tyre Sampson Act"; requiring permanent amusement rides operated for the first time in this state after a specified date to have a ride commissioning and certification report on file with the Department of Agriculture and Consumer Services within a specified timeframe; authorizing the department to conduct unannounced inspections for specified purposes; revising the circumstances under which the owner or manager of an amusement ride is required to report an accident and under which the department may impound an amusement ride involved in an accident, etc. AG 03/13/2023 Fav/CS AEG FP	Fav/CS Yeas 8 Nays 0
3	SB 904 Thompson (Identical H 1243, Compare H 1241, Linked S 902)	Public Records/Active Amusement Ride Investigation; Providing an exemption from public records requirements for all investigatory records made or received by the Department of Agriculture and Consumer Services pursuant to an active amusement ride investigation for a specified timeframe; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. AG 03/13/2023 Favorable AEG FP	Favorable Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Agriculture

Monday, March 13, 2023, 3:30—5:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1056 Gruters (Identical H 959)	Dosage Form Animal Health Products; Requiring a manufacturer or distributor of dosage form animal health products to register with the Department of Agriculture and Consumer Services; authorizing the department to waive the registration requirement under certain conditions and to require specified information for registration applications; providing conditions under which dosage form animal health products are considered misbranded or adulterated, etc. AG 03/13/2023 Favorable AEG FP	Favorable Yeas 8 Nays 0
5	SB 1164 Collins (Identical H 1279)	Department of Agriculture and Consumer Services; Authorizing farmers whose property meets certain requirements to apply to the Department of Revenue for a Florida farm tax exempt agricultural materials (TEAM) card; requiring by a specified date all food commodities purchased by certain state entities to be grown or produced in this state under certain circumstances; revising the types of entities required to obtain food permits from the department; revising the authority of the department to permit and collect samples of products for testing at certain facilities; repealing provisions relating to the State Agricultural Advisory Council and the Florida Young Farmer and Rancher Advisory Council, respectively, etc. AG 03/13/2023 Favorable AEG FP	Favorable Yeas 8 Nays 0
6	SB 1166 Collins (Identical H 1215)	Public Records/Investigators of the Department of Agriculture and Consumer Services; Providing an exemption from public records requirements for the personal identifying and location information of current or former inspectors or investigators of the Department of Agriculture and Consumer Services and the spouses and children of the current or former inspectors or investigators; providing for retroactive application; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. AG 03/13/2023 Favorable GO RC	Favorable Yeas 7 Nays 1

COMMITTEE MEETING EXPANDED AGENDA

Agriculture

Monday, March 13, 2023, 3:30—5:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	SB 1172 Calatayud (Similar H 1555)	Hunger-Free Campus Pilot Program; Citing this act as the “Hunger-Free Campus Act”; establishing the pilot program within the Department of Agriculture and Consumer Services for a specified period; requiring the Commissioner of Agriculture to identify the three state universities or Florida College System institutions with the highest number of Pell Grant-eligible students for participation in the pilot program; requiring the Office of Program Policy Analysis and Government Accountability to conduct a study to evaluate food insecurity on the campuses of state universities and Florida College System institutions, etc. AG 03/13/2023 Fav/CS AEG FP	Fav/CS Yeas 8 Nays 0
8	SB 1268 Rouson (Identical H 1195)	Urban Agriculture Pilot Projects; Redefining the term “urban agriculture” to include new commercial agricultural uses, etc. AG 03/13/2023 Favorable CA RC	Favorable Yeas 8 Nays 0
9	Presentation on Aquaculture by the University of South Florida		Presented
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Agriculture

BILL: CS/SM 814

INTRODUCER: Agriculture and Senator Gruters

SUBJECT: Supplemental Nutrition Assistance Program/Soft Drinks

DATE: March 14, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Becker	Becker	AG	Fav/CS
2.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SM 814 requests the United States Department of Agriculture to perform a study on the foods typically purchased by users of the Supplemental Nutrition Assistance Program (SNAP).

The memorial requires the Secretary of State to dispatch copies of the memorial to the Secretary of the United States Department of Agriculture, the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

II. Present Situation:

The Supplemental Nutrition Assistance Program (SNAP) offers nutrition assistance to eligible, low-income individuals and families in the form of funds to purchase eligible food. The Food and Nutrition Service (FNS), under the U.S. Department of Agriculture (USDA), administers SNAP, and the Florida Department of Children and Families (DCF) distributes the benefits. In Florida, SNAP and other economic assistance benefits are placed on Electronic Benefits Transfer (EBT) cards.

Eligible foods for SNAP are any food or food product intended for human consumption except alcoholic beverages, tobacco, hot foods, and hot food products prepared for immediate consumption, with some exceptions. Eligible foods also include junk foods such as soft drinks and candy.

Junk food is food that is nutrient poor but rich in calories, salt, and fats. Excess consumption of junk foods may lead to nutritional deficiencies and health disorders including obesity, heart disease, high blood pressure, and diabetes. States and local governments have requested permission from the USDA for waivers to prohibit SNAP participants from purchasing junk foods with limited nutritional values with their benefits as a way to promote healthy choices. However, the USDA has denied every such request.

Background

Supplemental Nutrition Assistance Program (SNAP)

The Food and Nutrition Service (FNS), under the U.S. Department of Agriculture (USDA), administers the Supplemental Nutrition Assistance Program (SNAP).¹ SNAP, formerly the Food Stamp Program, is the nation's largest domestic food and nutrition assistance program for low-income Americans.² For low-income households, increased spending on food is consistently and positively associated with diet quality and is associated with higher use and intake of both fruits and vegetables.³

In fiscal year 2020, SNAP provided assistance to approximately 39.9 million people living in 20.5 million households across the US, in an average month.⁴ SNAP benefits support individual households by reducing the effects of poverty and increasing food security while supporting economic activity across communities as SNAP benefits directly benefit farmers, retailers, food processors and distributors, and their employees.⁵

To be eligible for SNAP, households must have a gross monthly income at or below 130 percent of the poverty line, have a net income at or below the poverty line, and have assets below certain

¹ The Food Stamp Program (FSP) originated in 1939 as a pilot program for certain individuals to buy stamps equal to their normal food expenditures: for every \$1 of orange stamps purchased, people received 50 cents worth of blue stamps, which could be used to buy surplus food. The FSP expanded nationwide in 1974. Under the federal welfare reform legislation of 1996, Congress enacted major changes to the FSP, including limiting eligibility for certain adults who did not meet work requirements. The Food and Nutrition Act of 2008 renamed the FSP the Supplemental Nutrition Assistance Program (SNAP) and implemented priorities to strengthen program integrity; simplify program administration; maintain states' flexibility in how they administer their programs; and improve access to SNAP. See A Short History of SNAP, UNITED STATES DEPARTMENT OF AGRICULTURE, FOOD AND NUTRITION SERVICE, available at <https://www.fns.usda.gov/snap/short-history-snap> (last visited March 10, 2023).

² US Department of Agriculture, Economic Research Service, Supplemental Nutrition Assistance Program (SNAP) Overview. Available at <https://www.ers.usda.gov/topics/food-nutrition-assistance/supplemental-nutrition-assistance-program-snap/> (last visited March 10, 2023).

³ Food Expenditures and Diet Quality Among Low-Income Households and Individuals, UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE, July 2010, available at https://www.fns.usda.gov/sites/default/files/FoodExpendDietQuality_Summary.pdf (last visited March 10, 2023).

⁴ US Department of Agriculture, Food and Nutrition Service, Characteristics of SNAP Households: FY 2020 and Early Months of the COVID-19 Pandemic: Characteristics of SNAP Households, available at <https://www.fns.usda.gov/snap/characteristics-snap-households-fy-2020-and-early-months-covid-19-pandemic-characteristics> (last visited March 10, 2023).

⁵ US Department of Agriculture, Economic Research Service, Supplemental Nutrition Assistance Program (SNAP) Economic Linkages. Available at <https://www.ers.usda.gov/topics/food-nutrition-assistance/supplemental-nutrition-assistance-program-snap/economic-linkages/> (last visited March 10, 2023).

limits based on whether or not the household has a member aged 60 or older who has a disability.⁶ As of January 2023, 3,220,757 individuals, including 1,262,174 children and 1,017,860 elderly or disabled individuals, were receiving SNAP benefits in Florida.⁷

Eligible Foods

The Food and Nutrition Act of 2008 defines eligible food under SNAP as any food or food product intended for human consumption except alcoholic beverages, tobacco, hot foods, and hot food products prepared for immediate consumption, with some exceptions.⁸ Nonfood items such as pet foods, soaps, paper products, medicines and vitamins, household supplies, grooming items, and cosmetics are ineligible for purchase with SNAP benefits.⁹ Eligible foods include junk foods such as soft drinks and candy.¹⁰

When considering the eligibility of vitamins and supplements, power bars, energy drinks and other branded products, the primary determinant is the type of product label chosen by the manufacturer to conform to Food and Drug Administration (FDA) guidelines:

- Items that carry a nutrition facts label are eligible foods.
- Items that carry a supplement facts label are classified by the FDA as supplements and are therefore not eligible.¹¹

Foods Purchased By SNAP Households

In 2011, SNAP participants redeemed over \$71 billion in SNAP benefits in more than 230,000 SNAP-authorized stores.¹² Based on data from these purchases, the USDA published a study on the types of foods SNAP households typically purchase as compared to non-SNAP households.¹³

With respect to SNAP households, the data represents all food purchases made rather than only the foods purchased specifically with SNAP benefits.¹⁴ The data could not differentiate between items purchased with SNAP benefits and those purchased with other funds; most SNAP households use a combination of SNAP benefits and their own funds when making their food purchases.

⁶ Canter on Budget Policy and Priorities, *A Quick Guide to SNAP Eligibility and Benefits*, available at https://www.cbpp.org/research/food-assistance/a-quick-guide-to-snap-eligibility-and-benefits#_ftn5 (last visited March 10, 2023).

⁷ Email from Chad Corcoran, Deputy Director of Legislative Affairs, Department of Children and Families, Re: SNAP Participants (March 2, 2023). On file with the Florida House Children, Families, and Seniors Subcommittee.

⁸ 7 USC § 2012(k); see also 7 CFR § 271.2.

⁹ *Id.*

¹⁰ For an explanation of the inclusion of “junk food” and luxury items as eligible foods, see UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE, Supplemental Nutrition Assistance Program (SNAP) Eligible Food Items, <https://www.fns.usda.gov/snap/eligible-food-items> (last visited March 10, 2023).

¹¹ *Id.*

¹² Supplemental Nutrition Assistance Program 2011 Annual Report, UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE, 2011, available at <https://www.fns.usda.gov/sites/default/files/snap/2011-annual-report.pdf> (last visited March 10, 2023).

¹³ Foods Typically Purchased by Supplemental Nutrition Assistance Program (SNAP) Households, UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE, Nov. 2016, available at <https://www.fns.usda.gov/sites/default/files/ops/SNAPFoodsTypicallyPurchased.pdf> (last visited March 10, 2023).

¹⁴ *Id.*

The study found that the expenditure patterns of SNAP and non-SNAP households were similar:

- Approximately 40 cents of every dollar of food expenditures were spent on basic items such as meat, fruits, vegetable, milk, eggs, and bread.
 - 41 cents of every dollar for SNAP households.
 - 44 cents of every dollar for non-SNAP households.
- Approximately 20 cents out of every dollar were spent on sweetened beverages, desserts, salty snacks, candy and sugar.
 - 23 cents of every dollar for SNAP households
 - 20 cents of every dollar for non-SNAP households.
 - Approximately 40 cents of every dollar were spent on a variety of items such as cereal, prepared foods, dairy products, rice, and beans.¹⁵

SNAP households spent almost ten percent of their food expenditures on sweetened beverages, which was almost double what those households spent on fruit.¹⁶ As a percentage of total expenditures on foods, SNAP households spent the same on sweetened beverages as non-SNAP households spent on vegetables.¹⁷

Restricting SNAP Eligible Foods

States and local governments have proposed prohibiting SNAP participants from purchasing foods with limited nutritional values with their benefits as a mechanism to promote healthy choices; however, the USDA has identified four key problems with the rationale, feasibility, and potential effectiveness of these proposals:

- No clear standards exist for defining foods as good or bad, or healthy or not healthy;
- Implementation of food restrictions would increase program complexity and costs;
- Restrictions may be ineffective in changing the purchases of food stamp participants; and
- No evidence exists that food stamp participation contributes to poor diet quality or obesity.¹⁸

The USDA notes that it is difficult to draw a bright line between foods that contribute to a healthy diet and those that do not; the Dietary Guidelines for Americans, MyPyramid, the American Dietetic Association, and most nutritionists take a total diet approach to communicate healthful eating advice, placing emphasis on the overall pattern of food eaten, rather than any one food or meal. The USDA also asserts that it is unclear whether “healthy” foods should be characterized by the absence of nutrients to be avoided, the presence of desirable nutrients, or a combination of both. It goes on to note that diet sodas, for example, may pass a test based only on the absence of undesirable nutrients – they have no fat or sugars, are low in calories, and contain little sodium – and based on those criteria alone, they would appear preferable to orange juice.¹⁹

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ US Department of Agriculture, Food and Nutrition Service, Implications of Restricting the Use of Food Stamp Benefits (2007). Available at <https://fns-prod.azuresedge.us/sites/default/files/FSPFoodRestrictions.pdf> (last visited March 10, 2023).

¹⁹ *Id.*

The USDA argues that even if decisions could be made that distinguish allowable foods from restricted foods, there are still difficult implementation challenges, stemming from the enormous variety and scale of the American food sector; a typical supermarket carries about 40,000 products on its shelves and there are more than 300,000 food products available in the marketplace nationwide.²⁰ This creates three types of administrative and implementation problems:

- Identifying, evaluating, and tracking the nutritional profile of every food product or category available for purchase would be a significant expansion of government responsibility and associated bureaucracy, at a significant cost.
- New restrictions on the use of food stamps place the burden of enforcing compliance on the retailers and participants, who would need to be informed about what foods are no longer allowable.
- Expanding the pool of ineligible items increases opportunities for non-compliance, expands the need for oversight, and may increase the number of retailers or participants found in violation of program rules.²¹

Additionally, the USDA argues that it is not clear that a limit on the acceptable uses of food stamp benefits would actually change the nutrition profile of food purchases because SNAP participants could continue to purchase any food they want using their own money. The USDA also states that the body of research on SNAP does not support the view that restricting food choices will result in more healthful food purchases and consumption or improved dietary outcomes.²² Instead, it notes that research clearly indicates that participation in the program increases household spending on food.²³

Finally, the USDA asserts that achieving dietary improvement among SNAP participants is a complex challenge that is not likely to be met by prohibiting use of benefits for a group of foods perceived as having limited nutritional value.²⁴

USDA has denied every request from states and local governments to implement waivers that would allow them to adopt their own standards for allowable foods under SNAP.²⁵ In rejecting

²⁰ Id.

²¹ Id.

²² Id.

²³ Id.

²⁴ Supra, note 18.

²⁵ In 2004, and several times since, Minnesota sought a waiver to prevent the purchase of junk food with SNAP benefits. The USDA denied the waiver, which focused on candy and soda, among other foods, stating that it was based on questionable merits. In 2010, New York City sought a federal waiver to prohibit the purchase of soda and other sweetened beverages with SNAP benefits for two years. The waiver was ultimately denied by the USDA due to the logistical difficulty associated with implementing the plan. Anemona Hartocollis, *The New York Times* (2010). *New York Asks to Bar Use of Food Stamps to Buy Sodas*. Available at <https://www.nytimes.com/2010/10/07/nyregion/07stamps.html> (last visited February 27, 2023). See also Patrick McGeehan, *New York Times* (2011). *U.S. Rejects Mayor's Plan to Ban Use of Food Stamps to Buy Soda*. Available at <https://www.nytimes.com/2011/08/20/nyregion/ban-on-using-food-stamps-to-buy-soda-rejected-by-usda.html> (last visited March 10, 2023). Since 2013, the USDA has denied Maine's repeated requests to ban the purchase of junk foods with SNAP benefits. In 2016, Maine's Governor threatened to implement reform unilaterally or cease the state's administration of the program if the USDA did not allow it to restrict purchases. *Portland Press Herald* (2016). *Gov. LePage's threat risks suspension of food stamp assistance*. Available at <https://www.pressherald.com/2016/06/21/spokesperson-says-gov-lepage-has-threatened-to-end-food-stamp-program/> (last visited March 10, 2023). The USDA again denied Maine's request to ban the use of SNAP benefits to purchase junk food in 2018 under the Trump Administration. *The Washington*

them, the USDA has noted that state options are problematic because there is no scientific basis for allowing nutrition standards to vary from place to place and that variation in state requirements would complicate industry compliance and increase the cost of doing business.²⁶

III. Effect of Proposed Changes:

CS/SM 814 requests the United States Department of Agriculture to perform a study on the foods typically purchased by users of the Supplemental Nutrition Assistance Program (SNAP).

The memorial requires the Secretary of State to dispatch copies of the memorial to the Secretary of the United States Department of Agriculture, the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

Post (2018). Why the Trump Administration Won't let Maine Ban Soda and Candy from Food Stamps. Available at <https://www.washingtonpost.com/news/wonk/wp/2018/01/20/why-the-trump-administration-wont-let-maine-ban-soda-and-candy-from-food-stamps/> (last visited March 10, 2023).

²⁶ Supra, note 18.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

IX. Additional Information:

- A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Agriculture on March 13, 2023:

The committee substitute requests the United States Department of Agriculture to perform a study on the foods typically purchased by users of the Supplemental Nutrition Assistance Program (SNAP), whereas the original bill requested Congress to prohibit SNAP users from purchasing soft drinks.

- B. Amendments:

None.



767048

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2023	.	
	.	
	.	
	.	

The Committee on Agriculture (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the resolving clause
and insert:

That the United States Department of Agriculture is
requested to perform a study on the foods typically purchased by
users of the Supplemental Nutrition Assistance Program.

BE IT FURTHER RESOLVED that the Secretary of State dispatch
copies of this memorial to the Secretary of the United States
Department of Agriculture, the President of the United States,



767048

the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the resolving clause
and insert:

Senate Memorial

A memorial to the United States Department of Agriculture, requesting the department to perform a study on the foods typically purchased by users of the Supplemental Nutrition Assistance Program.

WHEREAS, the Supplemental Nutrition Assistance Program (SNAP) offers nutrition assistance to eligible low-income individuals and families in the form of funds to purchase eligible food, and

WHEREAS, The Food and Nutrition Service under the United States Department of Agriculture (USDA) administers SNAP, and the Florida Department of Children and Families distributes the benefits, and

WHEREAS, SNAP benefits may be used to purchase any food product intended for human consumption, but may not be used to purchase alcoholic beverages, tobacco, hot foods, and hot food products prepared for immediate consumption, and

WHEREAS, the last study administered by the USDA to identify foods typically purchased by SNAP households was conducted using point-of-sale data from 2011, information that



767048

40 is over a decade old, and
41 WHEREAS, relevant and recent data is needed to identify the
42 foods typically purchased by SNAP households, NOW, THEREFORE,

By Senator Gruters

22-01247-23

2023814__

Senate Memorial

A memorial to the Congress of the United States,
urging Congress to prohibit the use of Supplemental
Nutrition Assistance Program benefits to purchase soft
drinks.

WHEREAS, the Supplemental Nutrition Assistance Program
(SNAP) offers nutrition assistance to eligible low-income
individuals and families in the form of funds to purchase
eligible food, and

WHEREAS, the Food and Nutrition Service, under the United
States Department of Agriculture (USDA), administers SNAP, and
the Florida Department of Children and Families distributes the
benefits, and

WHEREAS, SNAP benefits may be used to purchase any food or
food product intended for human consumption, including soft
drinks, but may not be used to purchase alcoholic beverages,
tobacco, hot foods, and hot food products prepared for immediate
consumption, and

WHEREAS, soft drinks are nutrient poor but rich in calories
and can lead to nutritional deficiencies and health disorders,
including obesity, heart disease, high blood pressure, and
diabetes, and

WHEREAS, state and local governments have requested
permission from the USDA for waivers to prohibit SNAP
participants from purchasing soft drinks with their benefits as
a way to promote healthy choices, and

WHEREAS, the USDA has denied every such request, NOW,
THEREFORE,

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

22-01247-23

2023814__

Be It Resolved by the Legislature of the State of Florida:

That the United States Congress is requested to prohibit
recipients of benefits under the Supplemental Nutrition
Assistance Program (SNAP), 7 U.S.C. ss. 2011 et seq., from using
SNAP benefits to purchase flavored carbonated beverages
sweetened with natural or artificial sweeteners, also known as
"soft drinks."

BE IT FURTHER RESOLVED that the Secretary of State dispatch
copies of this memorial to the President of the United States,
the President of the United States Senate, the Speaker of the
United States House of Representatives, and each member of the
Florida delegation to the United States Congress.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

3/13/23

Meeting Date

Agriculture

Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

814

Bill Number or Topic

767048

Amendment Barcode (if applicable)

Name **Adam Basford**

Phone **224-7173**

Address **516 N Adams St**

Email **abasford@aif.com**

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Associated Industries of Florida

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

3/13/2023

Meeting Date

Agriculture

Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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SB 814

Bill Number or Topic

767048

Amendment Barcode (if applicable)

Name

Jessica Hunter

Phone

850-694-1216

Address

227 South Adams St.

Email

jessica@frf.org

Street

Tallahassee

FL

32301

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Florida Retail Federation

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

3/13/23

Meeting Date

Senate Agriculture

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

814

Bill Number or Topic

767048

Amendment Barcode (if applicable)

Name **Sarah Katherine Massey**

Phone **850-521-1200**

Address **136 S. Bronough St**

Email **skmassey@flchamber.com**

Street

Tallahassee

City

Florida

State

32301

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Chamber of Commerce

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3-13-23

Meeting Date

Ag

Committee

SB 814

Bill Number or Topic

767048

Amendment Barcode (if applicable)

Name Elizabeth DeWitt

Phone 407-385-2708

Address 135 Jenkins St., Suite 105B, #199
Street

Email liz.dewitt@flabev.org

St. Augustine,
City

FL
State

32086
Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:
Florida Beverage Association

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1, [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

5/13/2023

Meeting Date

SB 814

Bill Number or Topic

767048

Amendment Barcode (if applicable)

Ag

Committee

Name

Kelli Greene

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Street

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kgreene@FLImpact.org

Tallahassee FL

City

State

32303

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

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This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Agriculture

BILL: CS/SB 902

INTRODUCER: Senator Thompson

SUBJECT: Safety Standards for Amusement Rides

DATE: March 14, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Burse	Becker	AG	Fav/CS
2.			AEG	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 902, the “Tyre Sampson Act” requires permanent amusement rides operated for the first time in this state after a specified date to have a ride commissioning and certification report on file with the Department of Agriculture and Consumer Services (department) within a specified timeframe. The bill authorizes the department to conduct unannounced inspections for specified purposes. The bill revises the circumstances under which the owner or manager of an amusement ride is required to report an accident and under which the department may impound an amusement ride involved in an accident, etc.

The department estimates that SB 902 would cost the department \$1.4 million in recurring expenditures, in addition to \$791,204 in non-recurring, for Fiscal Year 2023-2024. The department also estimates that SB 902 would cost the department \$1.4 million in recurring expenditures for Fiscal Years 2024-2025 and 2025-2026.

This bill takes effect July 1, 2023.

II. Present Situation:

Tyre Sampson

In March 2022, 14 year old Tyre Sampson fell to his death from the 400-foot (122-meter) drop tower ride operated by Orlando Slingshot¹. Outside engineers reported that sensors on the ride had been adjusted manually to double the size of the opening for restraints on two seats, resulting in the teen not being properly secured². The ride has since been shut down and the company has been fined by the department.

Amusement Ride Inspections

The department is required to inspect all amusement rides in Florida, except those at large parks with more than 1,000 employees and an inspector on staff. The Bureau of Fair Rides Inspection within the department is required to inspect, investigate, and enforce the regulations related to amusement rides.³

Amusement rides regulated in the state of Florida fall into two major groups:

- Temporary amusement rides (those that are regularly relocated with or without assembly);
- Permanent facility amusement rides (those that are not regularly relocated and operate as a lasting part of the premises).⁴

All temporary amusement rides are inspected each time they are moved or set up at a new location, and permanent rides are inspected semiannually. All amusement rides are required to be permitted annually, are required to undergo nondestructive testing for structural integrity, and must have an annual inspection by a professional engineer or qualified inspector.⁵

The department also inspects go-kart tracks, water-related amusement rides, and zip-line courses operating in the state.⁶

In addition, the department investigates accidents involving amusement rides and has the authority to impose sanctions on amusement ride owners for violation of the law. The department can close and impound amusement rides that pose an immediate serious danger to public health, safety, and welfare.⁷

¹ <https://www.mysuncoast.com/2022/11/22/florida-amusement-park-where-tyre-sampson-fell-his-death-fined-250000/> (last visited February 24, 2023)

² *Id.*

³ Section 616.242, F.S.

⁴ Florida Department of Agriculture and Consumer Services, Fair Rides Inspection, <https://fdacs.gov/Business-Services/Fairs/Fair-Rides-Inspection> (last visited February 24, 2023).

⁵ Florida Department of Agriculture and Consumer Services, Fair Rides Inspection, <https://fdacs.gov/Business-Services/Fairs/Fair-Rides-Inspection> (last visited February 28, 2023).

⁶ *Id.*

⁷ *Id.*

Adoption of Standards

The department is required to adopt by rule standards for amusement rides which are the same as or similar to the following national standards:

- American Society for Testing and Materials (ASTM) Committee F-24 Standards on Amusement Rides and Devices.
- National Electric Code Handbook, Article 525.
- National Fire Protection Code 101 (chapters 8-4.6 and 9-4.6).
- ASTM Standards: E543 Practice for Determining the Qualification of Nondestructive Testing Agencies.
- American Society for Nondestructive Testing (ASNT) Document Recommended Practice for Nondestructive Testing Personnel Qualification and Certification (SNT-TC-1A).⁸

The department is authorized to adopt rules necessary to effectuate its statutory duties in the interest of public health, safety, and welfare and to promote patron safety in the design, construction, assembly, disassembly, maintenance, and operation of amusement rides in this state.⁹

There are no mandatory national safety standards for U.S. amusement rides, but the amusement ride industry has developed safety standards through the ASTM F-24 committee. The ASTM F-24 committee is responsible for standards related to amusement rides and devices. This includes waterslides, inflatables, go-karts, zip lines and challenge courses, trampoline courts, and a growing list of commercially-operated amusement experiences.¹⁰

Annual Permits

Amusement rides may not operate without an annual permit. To apply, an owner must submit to the department a written application on a form prescribed by department rule, and include:

- The legal name, address, and primary place of business of the owner.
- A description, manufacturer's name, serial number, model number, and, if previously assigned, the United States Amusement Identification Number of the amusement ride.
- A valid certificate of insurance for each amusement ride.
- An affidavit of compliance (AOC) that the amusement ride was inspected and in general conformance with the law and applicable rules.
- The AOC must be executed by a professional engineer or a qualified inspector no earlier than 60 days before, but not later than, the date of filing of the application with the department.
- The owner is required to request inspection and permitting of the amusement ride within 60 days of the date of filing the application with the department.

⁸ Section 616.242(4), F.S.

⁹ *Id.*

¹⁰ ASTM International, *Committee F24 on Amusement Rides and Devices*, <https://www.astm.org/get-involved/technical-committees/committee-f24> (Last visited February 28, 2023).

- The department is required to inspect and permit the amusement ride within 60 days after the filing of the application with the department.
- If required, an affidavit of nondestructive testing dated and executed no earlier than 60 days before, but not later than, the date of the filing of the application with the department.
- The owner is required to request inspection and permitting of the amusement ride within 60 days of the date of filing the application with the department.
- The department is required to inspect and permit the amusement ride within 60 days after the filing of the application with the department.
- A request for inspection.¹¹

Upon request, the owner must, at no cost to the department, provide the department with a copy of the manufacturer's current recommended operating instructions in the possession of the owner, the owner's operating fact sheet, and any written bulletins in the possession of the owner concerning the safety, operation, or maintenance of the amusement ride.¹²

An annual permit must be issued to the owner when a completed application has been received, the amusement ride has passed department inspection, and all applicable fees, as set by department rule,¹³ have been paid.¹⁴

The annual permit:

- Is valid for one year from the date of issuance;
- Is not transferable; and
- Must be displayed on the amusement ride in a place that is visible to patrons.¹⁵

Nondestructive Testing

In order to operate an amusement ride the owner must at all times have a current affidavit of nondestructive testing from a professional engineer or qualified inspector. The affidavit provides that the amusement ride has undergone nondestructive testing for metal fatigue at least annually.¹⁶ Nondestructive testing must be performed by a technician who meets the national standards for amusement rides provided in department rule.¹⁷

Nondestructive testing for metal fatigue must include visual and nonvisual testing and can be conducted more often than annually if required by any rule adopted under this section, the manufacturer of the amusement ride, or the professional engineer or qualified inspector executing the affidavit of nondestructive testing.¹⁸

An affidavit of nondestructive testing must provide:

¹¹ Section 616.242(5), F.S.

¹² *Id.*

¹³ R. 5J-18.012, F.A.C.

¹⁴ Section 616.242(5), F.S.

¹⁵ *Id.*

¹⁶ Section 616.242(6), F.S.

¹⁷ *Id.*

¹⁸ *Id.*

- That the amusement ride was inspected in person by the affiant.
- That all nondestructive testing requirements are current.
- That the nondestructive testing was performed by a qualified nondestructive testing technician.
- The components of the amusement ride for which the manufacturer has recommended or required nondestructive testing.
- The type of nondestructive testing required or recommended by the manufacturer.
- The frequency of the nondestructive testing required or recommended by the manufacturer.
- The components of the amusement ride for which the affiant has recommended or required nondestructive testing.
- The type of nondestructive testing required or recommended by the affiant.
- The frequency of the nondestructive testing as required or recommended by the affiant.
- That visual nondestructive testing is adequate for the amusement ride to be in general conformance with the requirements of this section, and all applicable rules, if only visual nondestructive testing is required or recommended by either the manufacturer or the affiant.¹⁹

Nondestructive testing is not required for:

- Fun houses;
- Houses of mirrors;
- Haunted houses;
- Mazes;
- Wave pools;
- Wave-making devices;
- Kiddie pools;
- Slides that are fully supported by an earthen mound;
- Non-motorized playground equipment that requires a manager; or
- Lazy-river type non-motorized floating carriers propelled by water.²⁰

Inspections

In order to obtain an annual permit, amusement rides must be inspected by the department and receive an inspection certificate. In addition, the following requirements must be met:

- Permanent amusement rides must be inspected semiannually and receive an inspection certificate; and
- Temporary amusement rides must be inspected and receive an inspection certificate each time the ride is set up or moved to a new location in this state unless the ride is:
 - Used at a private event;
 - A simulator, the capacity of which does not exceed 16 persons; or
 - A kiddie ride used at a public event, provided that there are no more than three amusement rides at the event, none of the kiddie rides at the event exceeds a capacity of

¹⁹ *Id.*

²⁰ *Id.*

12 persons, and the ride has an inspection certificate that was issued within the preceding 6 months.²¹

To obtain a department inspection, the owner must submit a written request to the department on a department prescribed form, and provide the following information:

- The legal name, address, and primary place of business of the owner.
- A description, manufacturer's name, serial number, model number, and the United States Amusement Identification Number, if previously assigned, of the amusement ride.
- For a temporary amusement ride, for each time the amusement ride is set up or moved to a new location, the date of first intended use at the new location and the address or a description of the new location.²²

For permanent amusement rides, a request for inspection must be received by the department at least 15 days before the:

- Owner's planned opening date; or
- Expiration of the prior inspection certificate.²³

For temporary amusement rides, the request for inspection must be received by the department each time the amusement ride is set up or moved to a new location at least 14 days before the date of first intended use at the new location.²⁴

In both cases, if the request for inspection is received late, the department is authorized to inspect the amusement ride and charge a late fee. In addition, if the owner fails to timely cancel a Request for Inspection, requests holiday or weekend inspections, or is required to have a replacement United States Amusement ID Program (USAID) plate issued by the department, the owner may be charged an appropriate fee.²⁵

Inspections are assigned on a first come, first served basis, and overflow requests will be scheduled on the closest date to the date for which the inspection was requested. Upon failure of an amusement ride to pass an inspection, the owner may request in writing a re-inspection. The department is required to re-inspect the ride as soon as practical following receipt of the written request and applicable re-inspection fees.²⁶

Upon passage of inspection and payment of the applicable fee, the department must issue an inspection certificate containing the following information:

- Date of inspection;
- Site of the inspection; and
- Name of the inspector.²⁷

²¹ Section 616.242(7), F.S.

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

Inspection certificates are valid only for the site stated on the certificate, for a period of not more than 6 months from the date of issuance. They are not transferable and must be displayed on the amusement ride at a place readily visible to patrons.²⁸Fees

The department is required by rule to establish fees to cover the costs and expenditures associated with the fair rides inspection program, including all direct and indirect costs. If there is not sufficient general revenue appropriated by the Legislature, the industry is required to pay for the remaining cost of the program.²⁹

Fees must be deposited in the General Inspection Trust Fund. Any owner of an amusement ride who has not paid all the fees required under this section or who has any unpaid fine outstanding under this section are prohibited from operating any amusement ride in this state until the fees and fines have been paid to the department.³⁰

The department has adopted the following fees:³¹

Type of Fee	Permanent Ride	Temporary Ride
Annual permit fee for each kiddie amusement ride	\$300	\$150
Annual permit fee for each non-kiddie amusement ride	\$400	\$200
Annual permit fee for each super amusement ride	\$600	\$300
Inspection fee per go kart, in addition to the track inspection fee	\$10	\$10
Reinspection fee (return to site)	\$500	\$500
Reinspection fee (return on-site)	\$100	\$100
Fee to replace a lost U.S. Amusement Identification (USAID) plate	\$100	\$100
Fee per amusement ride for late inspection request	\$100	\$100
Fee per amusement ride for failure to cancel inspection request	\$100	\$100
Additional fee per amusement ride for inspection on weekend or state holiday	\$75	\$75
Inspection fee per harness, in addition to the ropes course/zipline permit fee	\$5	\$5

In order to obtain a permit to operate an amusement ride in Florida, the ride owner must obtain injury liability insurance in the following amounts:

- One million dollars minimum per occurrence; and
- One million dollars in the aggregate.³²

The policies must be procured from an insurer that is:

- Licensed to transact business in this state; or
- Approved as a surplus lines insurer.³³

²⁸ *Id.*

²⁹ Section 616.242(8), F.S.

³⁰ *Id.*

³¹ R. 5J-18.012, F.A.C.

³² Section 616.242(8), F.S.

³³ *Id.*

The insurance requirements do not apply to a governmental entity that is covered by the provisions of s. 768.28(16), F.S., which authorizes the state and its agencies and subdivisions to:

- Be self-insured;
- Enter into risk management programs;
- Purchase liability insurance for whatever coverage they may choose; or
- Have any combination thereof.³⁴

Exemptions

The regulations related to amusement rides do not apply to the following:

- Permanent facilities that employ at least 1,000 full-time employees and that maintain full-time, in-house safety inspectors;
- Any playground operated by a school, local government, or business licensed under chapter 509, F.S., if the playground is an incidental amenity and the operating entity is not primarily engaged in providing amusement, pleasure, thrills, or excitement;
- Museums or other institutions principally devoted to the exhibition of products of agriculture, industry, education, science, religion, or the arts;
- Conventions or trade shows for the sale or exhibit of amusement rides if there are a minimum of 15 amusement rides on display or exhibition, and if any operation of such amusement rides is limited to the registered attendees of the convention or trade show;
- Skating rinks, arcades, laser or paint ball war games, bowling alleys, miniature golf courses, mechanical bulls, inflatable rides, trampolines, ball crawls, exercise equipment, jet skis, paddle boats, airboats, helicopters, airplanes, parasails, hot air or helium balloons whether tethered or untethered, theatres, batting cages, stationary spring-mounted fixtures, rider-propelled merry-go-rounds, games, side shows, live animal rides, or live animal shows;
- Go-karts operated in competitive sporting events if participation is not open to the public;
- Non-motorized playground equipment that is not required to have a manager;
- Coin-actuated amusement rides designed to be operated by depositing coins, tokens, credit cards, debit cards, bills, or other cash money and which are not required to have a manager, and which have a capacity of six persons or less;
- Motorsports facilities described in s. 549.09(1)(a), F.S., when such facilities are operating cars, trucks, or motorcycles only;
- Battery-powered cars or other vehicles that are designed to be operated by children seven years of age or under and that cannot exceed a speed of four miles per hour;
- Mechanically driven vehicles that pull train cars, carts, wagons, or other similar vehicles, that are not confined to a metal track or confined to an area but are steered by an operator and do not exceed a speed of 4 miles per hour;
- Water-related amusement rides operated by a business licensed under chapter 509, F.S., if the water-related amusement ride is an incidental amenity and the operating business is not primarily engaged in providing amusement, pleasure, thrills, or excitement and does not offer day rates;
- Amusement rides at a private, membership-only facility if the amusement ride is an incidental amenity and the facility is not open to the general public; is not primarily engaged in providing amusement, pleasure, thrills, or excitement; and does not offer day rates; and

³⁴ *Id.*

- Nonprofit permanent facilities registered under chapter 496, F.S., which are not open to the general public.³⁵

The department is authorized to establish by rule exemptions from the regulations on amusement rides for “non-motorized or human-powered amusement rides or coin-actuated amusement rides.”³⁶

Inspection Standards

Amusement rides are required to adhere to the following inspection standards:

- All mechanical, structural, and electrical components that affect patron safety must be in good working order.
- All control devices, speed-limiting devices, brakes, and safety equipment designated by the manufacturer must be in good working order.
- Parts must be properly aligned and not be bent, distorted, cut, or otherwise injured to force a fit. Parts requiring lubrication must be lubricated in the course of assembly. Fastening and locking devices must be installed where required for safe operation.
- Before being used by the public, an amusement ride must be placed or secured with blocking, cribbing, outriggers, guys, or other means so as to be stable under all operating conditions.
- Areas in which patrons may be endangered by the operation of an amusement ride must be fenced, barricaded, or otherwise effectively guarded against inadvertent contact.
- Machinery used in or with an amusement ride must be enclosed, barricaded, or otherwise effectively guarded against inadvertent contact.
- An amusement ride powered so as to be capable of exceeding its maximum safe operating speed must be provided with a maximum-speed-limiting device.
- The interior and exterior parts of all patron-carrying amusement rides with which a patron may come in contact must be smooth and rounded and free from sharp, rough, or splintered edges and corners, with no projecting studs, bolts, screws, or other projections which might cause injury.
- Signs that advise or warn patrons of age restrictions, size restrictions, health restrictions, weight limitations, or any other special consideration or use restrictions required or recommended for the amusement ride by the manufacturer must be prominently displayed at the patron entrance of each amusement ride.
- All amusement rides must comply with the section of law governing amusement rides and related rules.³⁷

Major Modifications

After an amusement ride has undergone a major modification, and prior to the time it is placed in operation, a Florida Licensed professional engineer must certify that the amusement ride is in

³⁵ Section 616.242(10), F.S.

³⁶ *Id.*

³⁷ Section 616.242(11), F.S.

compliance with the entire section of law governing amusement ride safety, and all related rules.³⁸

Entry for Inspections

Authorized department employees may enter unannounced and inspect amusement rides at any time in a reasonable manner. Such employees are authorized to:

- Question any owner or manager;
- Inspect, investigate, photograph, and sample all pertinent places, areas, and devices; and
- Conduct all appropriate tests including nondestructive testing.³⁹

The department is authorized to impose fees for unannounced inspections and recover the cost of related tests.⁴⁰

- **Reporting and Investigating Accidents and Defects**

Accidents that the owner or manager have knowledge or, through the exercise of reasonable diligence should have knowledge, and for which a patron is transported to a hospital as defined in chapter 395, F.S., must be reported by the owner or manager to the department. Such reporting must be conducted by telephone within four hours after the accident and followed up by a written report to the department within 24 hours after the accident.

Any mechanical, structural, or electrical defects affecting patron safety for which an amusement ride is closed to patron use for more than four hours must be reported by the owner or manager to the department by telephone or facsimile within eight hours after the closing of the ride. A written report of the closing must be filed by the owner or manager with the department within 24 hours after the ride closes.

In addition, the department is authorized to impound amusement rides that have:

- Been involved in an accident for which a patron is transported to a hospital as defined in chapter 395, F.S.;
- A mechanical, structural, or electrical defect affecting patron safety.

In cases of impoundment, the department is authorized to impound any other amusement ride of a similar make and model and perform all necessary tests to determine the cause of the accident, defect, or safety of the ride and any other ride of a similar make and model. The ride owners are responsible for the cost of impoundment and relating testing.⁴¹

Owner/Manager Inspections

Prior to opening each day of operation, and before any inspection by the department, the owner or manager of an amusement ride is required to inspect and test the ride to ensure compliance with all requirements of the law governing amusement rides. Each inspection must be recorded

³⁸ Section 616.242(12), F.S.

³⁹ Section 616.242(13), F.S.

⁴⁰ *Id.*

⁴¹ Section 616.242(14), F.S.

on a form prescribed by department rule and signed by the person who conducted the inspection.⁴²

In lieu of using the department form, an owner or manager may request approval of an alternative form, which must include at least the information required on the department form. Inspection records of the last 14 daily inspections must be:

- Kept on site by the owner or manager; and
- Made immediately available to the department upon request.⁴³
- Employee Training
- Owners or managers of amusement rides are required to:
- Maintain a record of employee training for each employee who is authorized to operate, assemble, disassemble, transport, or conduct maintenance on an amusement ride; and
- Certify that each employee is trained on the amusement ride for which the employee is responsible.⁴⁴

The training record must be kept on site by the owner or manager and made immediately available to the department upon request. In lieu of using the department form, the owner or manager may request approval of an alternative form.⁴⁵ Training is prohibited when an amusement ride is open to the public, unless the training is conducted under the supervision of an employee who is trained in the operation of that ride.⁴⁶

Enforcement and Penalties

The department has the authority to deny, suspend for up to one year, or revoke any permit or inspection certificate. In addition, the department may impose an administrative fine pursuant to s. 570.971, F.S., not to exceed \$2,500 per violation, for each day the violation exists, against the owner of the amusement ride if the department finds that:

- An amusement ride has operated or is operating;
- With a mechanical, structural, or electrical defect that affects patron safety, of which the owner or manger has knowledge, or, through the exercise of reasonable diligence, should have knowledge;
- In a manner or circumstance that presents a risk of serious injury to patrons;
- At a speed in excess of its maximum safe operating speed;
- In violation of department rules or state law; or
- In violation of an order of the department or any court.
- A manager in the course of his or her duties is under the influence of drugs or alcohol.⁴⁷

The department is required, in its order suspending a permit or inspection certificate, to specify the period during which the suspension is effective, which may not exceed 1 year. The permit or

⁴² Section 616.242(15), F.S.

⁴³ *Id.*

⁴⁴ Section 616.242(16), F.S.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ Section 616.242(19), F.S.

inspection certificate must remain suspended during the period, subject to any rescission or modification of the order by the department or modification or reversal by the court, prior to expiration of the suspension period.⁴⁸

The owner of an amusement ride whose permit or inspection certificate has been revoked by the department may not apply for another permit or inspection certificate for the amusement ride within two years after the date of the revocation. If judicial review is sought and a stay of the revocation is obtained, the owner may not apply for another permit or inspection certificate within two years after the final order of the court sustaining the revocation.⁴⁹

During the period of suspension or revocation, the owner may not engage in or attempt to engage in any operation of the amusement ride for which a permit or inspection certificate is required.⁵⁰

When a department imposed suspension period has expired, the owner may reapply for a new permit or inspection certificate by submitting a complete application to the department.⁵¹

In addition, and notwithstanding the existence of any adequate remedy at law, the department is authorized to bring an action to enjoin the violation of any provision, or rules adopted, under this section, in the circuit court of the county in which the violation occurs or is about to occur. Upon competent and substantial evidence presented by the department, the court is required to immediately issue the temporary or permanent injunction sought by the department without bond.⁵²

In addition to the penalties, the department is authorized to issue a letter of warning to the owner of the ride specifying the violation and requiring immediate corrective action.⁵³

Any person who knowingly violates any of the provisions of the regulations governing amusement rides commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, F.S.⁵⁴

Consumer Product Safety Commission

The Consumer Product Safety Commission (Commission) is charged with protecting the public from unreasonable risks of injury or death associated with the use of the thousands of types of consumer products under the Commission's jurisdiction. The Consumer Product Safety Act (Act)⁵⁵ authorizes the Commission to investigate serious accidents involving portable carnival rides, inflatables, and go-karts. Amusement rides operated at permanent parks ("permanently fixed to a site") are exempt from compliance with the Act.⁵⁶

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ 15 U.S.C. ch. 47 § 2051 et seq.

⁵⁶ Safeparks, *U.S. Federal and State Amusement Ride Regulation*, <https://ridesdatabase.org/saferparks/u-s-regulatory-agencies/> (last visited February 28, 2023)

Ride manufacturers or owner/operators are required to notify the Commission if they obtain information which reasonably supports the conclusion that a portable amusement ride, inflatable device, go-kart or other non-exempt amusement device:

- Fails to comply with a consumer product safety standard or banning regulation established by the omission or a voluntary consumer product safety standard upon which the Commission has relied under section 9 of the Act;
- Contains a defect which could create a substantial product hazard described in section 15(a)(2) of the Act; or
- Creates an unreasonable risk of serious injury or death.⁵⁷

The Commission does not provide for an inspection program.

Other States

According to a consumer safety organization, Safeparks.org, the research of amusement ride laws in 50 states found the following:⁵⁸

Degree of Oversight	Number of States
Comprehensive Government Oversight	20 States (Including Florida)
Partial Government Oversight	12 States
Private Sector Oversight	9 States
No State Agency with Jurisdiction	8 States
Electrical Inspections Only	1 State

III. Effect of Proposed Changes:

This act may be cited as the “Tyre Sampson Act.”

SB 902 significantly amends ch. 616, F.S. relating to the regulation of amusement rides. The bill amends the definition of “major modification” and provides definitions for “nationally recognized testing laboratory” and “ride commissioning and certification report.”

The bill provides new requirements for permanent and temporary amusement rides. The bill requires for each permanent or temporary amusement rides operated, for the first time after July 1, 2023, have a ride commissioning and certification report on file with the department before the ride’s first inspection and a permit is issued.

The bill requires a ride owner or manager to provide a longitudinal record regarding accidents involving rides they previously owned or operated as part of each permanent or temporary amusement ride annual permit application. It also provides exemptions for temporary amusement

⁵⁷ *Id.*

⁵⁸ *Id.*

rides from required permit to include previously permitted rides at private events and kiddie rides at public events not exceeding three amusement rides.

The bill requires that nonvisual nondestructive testing must be used when it cannot be adequately evaluated by other means. The bill also requires that the type of nondestructive testing or recommended by affiant must include the manufacturer's requirements and recommendations. If there are no additional nondestructive testing the affiant must affirm manufacturer's requirements are sufficient for safe operation.

SB 902 creates new reporting requirements for an affidavit of nondestructive testing. The affidavit of nondestructive testing must include the following:

That the ride is in conformance with the requirements of statute and applicable department rules.

Whether the amusement ride went under a major modification, the name of the person who authorized modification and the date modification took place.

That the amusement ride is in conformance with all of the manufacturer's required or recommended bulletins.

The bill permits the department to conduct unannounced inspections to verify that on-duty employees have received proper training, and to observe the amusement ride in operation in order to detect unsafe ride conditions that may have occurred following the last inspection. The department is also permitted to immediately remove amusement ride from service if unsafe conditions are found.

SB 902 prohibits sensors related to patron safety from being adjusted beyond the prescribed tolerances and requires that the proper positioning and measurements for patron safety restraint systems must be provided to the department prior to inspection. The specifications must include redundant restraints, such as seat belts and safety bars for any ride that rises more than 100 feet. It also provides that if rider restrictions are not provided from manufacturer, the owner or manager must provide the department with documentation from manufacturer stating that such restrictions are not necessary for safe operation.

The bill permits the department to prepare a written report of each investigation it conducts. The bill also changes the accident reporting requirements for owners and managers following an accident and changes the parameters in which the department is permitted to impound an amusement ride involved in an accident.

The department shall establish by rule minimum training and retraining standards and the frequency of employee training for all amusement rides. The bill also creates the requirement that the owner or manager of an amusement ride shall immediately document all training following each training session.

The bill takes effect on July 1, 2023.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

This bill may result in additional inspections and/or closures of amusement rides. The fiscal impact on owners and/or operators would be difficult to determine due to complexity of the rides and additional requirements.⁵⁹

C. Government Sector Impact:

The department estimates that SB 902 would cost the department \$1.4 million in recurring expenditures, in addition to \$791,204 in non-recurring, for Fiscal Year 2023-2024. The department also estimates that SB 902 would cost the department \$1.4 million in recurring expenditures for Fiscal Years 2024-2025 and 2025-2026.⁶⁰

VI. Technical Deficiencies:

None.

⁵⁹ Department of Department of Agriculture and Consumer Services, *Senate Bill 902 Fiscal Analysis* (Mar. 8, 2023) (on file with the Senate Agriculture Committee)

⁶⁰ Department of Department of Agriculture and Consumer Services, *Senate Bill 902 Fiscal Analysis* (Mar. 8, 2023) (on file with the Senate Agriculture Committee)

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends s. 616.242 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Agriculture on March 13, 2023:

The committee substitute revises specifications related to the patron safety restraint systems must include redundant restraints, such as seat belts and safety bars for any ride that rises more than 100 feet.

B. Amendments:

None.



733156

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2023	.	
	.	
	.	
	.	

The Committee on Agriculture (Thompson) recommended the following:

Senate Amendment

Delete lines 348 - 349
and insert:
department before the time of inspection. The specifications
must include redundant restraints, such as seat belts and safety
bars for any ride that rises more than 100 feet, and must be

By Senator Thompson

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1 A bill to be entitled
 2 An act relating to safety standards for amusement
 3 rides; providing a short title; amending s. 616.242,
 4 F.S.; defining and redefining terms; requiring
 5 permanent amusement rides operated for the first time
 6 in this state after a specified date to have a ride
 7 commissioning and certification report on file with
 8 the Department of Agriculture and Consumer Services
 9 within a specified timeframe; revising the application
 10 requirements for permanent and temporary amusement
 11 ride permits; exempting from permit requirements
 12 temporary amusement rides that meet certain
 13 conditions; revising the annual nondestructive testing
 14 requirements for amusement rides; requiring nonvisual
 15 nondestructive testing to be used in certain
 16 circumstances; revising the affidavit requirements for
 17 nondestructive testing; authorizing the department to
 18 conduct unannounced inspections for specified
 19 purposes; requiring the department to remove an
 20 amusement ride from service and take appropriate
 21 administrative actions under certain circumstances;
 22 removing an exemption for temporary amusement ride
 23 inspections; authorizing the department to conduct
 24 certain inspections upon request; revising amusement
 25 ride inspection standards; revising the reasons for
 26 which the department is authorized to enter and
 27 inspect amusement rides; requiring the department to
 28 prepare a written report of each investigation it
 29 conducts; revising the circumstances under which the

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30 owner or manager of an amusement ride is required to
 31 report an accident and under which the department may
 32 impound an amusement ride involved in an accident;
 33 requiring daily owner or manager amusement ride
 34 inspections to be recorded at the time of inspection;
 35 requiring the department to establish by rule minimum
 36 amusement ride training and retraining standards;
 37 revising training requirements; revising circumstances
 38 under which an amusement ride may be considered an
 39 immediate serious danger to the public; providing an
 40 effective date.

41
 42 WHEREAS, on March 24, 2022, Tyre Sampson, a 14-year-old boy
 43 visiting this state from Missouri, fell to his death from the
 44 Eagle Drop Tower in Orlando, and

45 WHEREAS, after the accident, Department of Agriculture and
 46 Consumer Services inspectors performed multiple onsite
 47 inspections of the tower and its components and contracted with
 48 a third party to conduct a failure analysis assessment of the
 49 tower, and

50 WHEREAS, the investigators concluded that changes made to
 51 the ride by the ride operators after initial installation
 52 contributed to Tyre Sampson's death, and

53 WHEREAS, the proposed changes made by this act are
 54 necessary to address the safety problems discovered during the
 55 department's investigation, NOW, THEREFORE,

56
 57 Be It Enacted by the Legislature of the State of Florida:
 58

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Section 1. This act may be cited as the "Tyre Sampson Act."

Section 2. Present paragraphs (j) through (q) and (r) through (u) of subsection (3) of section 616.242, Florida Statutes, are redesignated as paragraphs (k) through (r) and (t) through (w), respectively, new paragraphs (j) and (s) are added to that subsection and a new paragraph (g) is added to subsection (6) of that section, and paragraph (h) of subsection (3), paragraph (a) of subsection (4), paragraph (b) of subsection (5), paragraphs (b) and (f) of subsection (6), subsection (7), paragraph (a) of subsection (8), paragraph (b) of subsection (11), subsections (12) and (14), paragraphs (a) and (c) of subsection (15), and subsections (16), (17), and (19) of that section are amended, to read:

616.242 Safety standards for amusement rides.—

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

(h) "Major modification" means any change in the structural characteristics, ~~or~~ operational characteristics, or safety systems of an amusement ride which will alter its performance or settings from those that specified in the manufacturer's design criteria or operator's manual or as certified in the ride commissioning and certification report.

(j) "Nationally recognized testing laboratory" means an independent laboratory recognized by the United States Occupational Safety and Health Administration which tests products to applicable product safety standards in order to provide independent testing and certification of devices that may pose a risk to the user.

(s) "Ride commissioning and certification report" means a commissioning and certification report by the ride manufacturer

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or a nationally recognized testing laboratory which certifies that the ride has been designed, manufactured, installed, and tested in conformance with the manufacturer's design criteria, standards referenced in this section, and rules adopted by the department.

(4) ADOPTION OF STANDARDS; RULES.—

(a) The department shall adopt by rule standards for amusement rides. The rules must:

1. Be ~~which are~~ the same as or similar to the following national standards:

a.1- ASTM International Committee F24 Standards on Amusement Rides and Devices.

b.2- The National Electric Code Handbook.

c.3- National Fire Protection Association standards.

2. Require that each permanent amusement ride operated for the first time in this state after July 1, 2023, have a ride commissioning and certification report on file with the department before the department conducts the permanent amusement ride's first inspection and issues a permit for the permanent amusement ride.

(5) PERMANENT AMUSEMENT RIDE ANNUAL PERMIT.—

(b) To apply for an annual permit, an owner or manager must submit to the department a written application on a form prescribed by department rule, which must include all of the following:

1. The legal name, address, e-mail address, and primary place of business of the owner or manager, ~~as applicable.~~

2. A description, manufacturer's name, serial number, model number, and, if previously assigned, the United States Amusement

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117 Identification Number of the amusement ride.

118 3. A valid certificate of insurance for each amusement
119 ride.

120 4. ~~If required under subsection (7),~~ An annual affidavit of
121 compliance and nondestructive testing certifying that the
122 amusement ride was inspected in person by the affiant and that
123 the amusement ride is in ~~general~~ conformance with the
124 requirements of this section and all applicable department
125 rules. The affidavit must have been executed by a professional
126 engineer or a qualified inspector within the last calendar year.

127 5. ~~The owner or manager shall,~~ At no cost to the
128 department, ~~provide the department~~ an electronic copy of the
129 manufacturer's current recommended operating instructions, the
130 owner's operating fact sheet, a longitudinal record regarding
131 accidents involving rides he or she previously owned or
132 operated, and any written bulletins concerning the safety,
133 operation, or maintenance of the amusement ride.

134 6. Beginning July 1, 2023, a ride commissioning and
135 certification report for each permanent amusement ride operated
136 for the first time in this state after July 1, 2023.

137 (6) TEMPORARY AMUSEMENT RIDE PERMIT.—

138 (b) To apply for a permit, an owner or manager must submit
139 to the department a written application on a form prescribed by
140 department rule. The written application, ~~which~~ must include all
141 of the following:

142 1. The legal name, address, e-mail address, and primary
143 place of business of the owner or manager, ~~as applicable.~~

144 2. A description, manufacturer's name, serial number, model
145 number, and, if previously assigned, the United States Amusement

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146 Identification Number of the amusement ride.

147 3. A valid certificate of insurance for each amusement
148 ride.

149 4. ~~If required under subsection (7),~~ An affidavit of
150 compliance and nondestructive testing certifying that the
151 amusement ride was inspected in person by the affiant and that
152 the amusement ride is in ~~general~~ conformance with the
153 requirements of this section and all applicable department
154 rules. The affidavit must be executed by a professional engineer
155 or a qualified inspector.

156 5. ~~The owner or manager shall,~~ At no cost to the
157 department, ~~provide the department~~ an electronic copy of the
158 manufacturer's current recommended operating instructions, the
159 operating fact sheet, a longitudinal record regarding accidents
160 involving rides he or she previously owned or operated, and any
161 written bulletins concerning the safety, operation, or
162 maintenance of the amusement ride.

163 (f) A temporary amusement ride is exempt from the required
164 permit if it is:

165 1. Used at a private event and was issued a permit within
166 the preceding 6 months; or

167 2. A kiddie ride used at a public event, provided that not
168 more than three amusement rides are at the event, the kiddie
169 rides at the event do not exceed a capacity of 12 persons, and
170 the kiddie ride passed a department inspection and was issued a
171 permit within the preceding 6 months. Unless the capacity of the
172 ride has been determined and specified by the manufacturer, the
173 department shall determine the capacity of the kiddie ride by
174 rule. An owner or a manager of a kiddie ride operating under

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175 this exemption is responsible for ensuring that not more than
 176 three amusement rides are operated at the event.

177 (g) The permit must be displayed in an accessible location
 178 on the amusement ride.

179 (7) NONDESTRUCTIVE TESTING; ANNUAL AFFIDAVIT; EXEMPTIONS.—

180 ~~(a) Except as provided in paragraph (d),~~ An owner or
 181 manager may not operate an amusement ride unless the owner or
 182 manager at all times has a current affidavit of nondestructive
 183 testing from a professional engineer or qualified inspector that
 184 the amusement ride has undergone nondestructive testing to
 185 verify the integrity of all components for metal fatigue at
 186 least annually. The nondestructive testing ~~for metal fatigue~~
 187 must be conducted more often than annually if required by any
 188 rule adopted under this section, by the manufacturer of the
 189 amusement ride, or by the professional engineer or qualified
 190 inspector executing the affidavit of nondestructive testing. The
 191 nondestructive testing ~~for metal fatigue~~ must consist at least
 192 of visual nondestructive testing, as well as nonvisual
 193 nondestructive testing ~~for metal fatigue~~, which must be
 194 conducted on the components of the amusement ride as required by
 195 any rule adopted under this section, by the manufacturer of the
 196 amusement ride, or by the professional engineer or qualified
 197 inspector executing the affidavit of nondestructive testing.

198 (b) Nonvisual nondestructive testing must be used to verify
 199 the integrity of components that, due to their design, location,
 200 installation, or a combination thereof, cannot be adequately
 201 evaluated by other means.

202 (c) Nondestructive testing ~~testings~~ must be performed by a
 203 technician who meets the requirements prescribed by department

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204 rule.

205 ~~(d)(e)~~ An affidavit of nondestructive testing, on a form
 206 prescribed by department rule, must state, at a minimum, all of
 207 the following:

208 1. That the amusement ride was inspected in person by the
 209 affiant.

210 2. That all of the manufacturer's nondestructive testing
 211 requirements and recommendations are current.

212 3. That the nondestructive testing was performed by a
 213 qualified nondestructive testing technician.

214 4. The components of the amusement ride for which the
 215 manufacturer has recommended or required nondestructive testing.

216 5. The type of nondestructive testing required or
 217 recommended by the manufacturer.

218 6. The frequency of the nondestructive testing required or
 219 recommended by the manufacturer.

220 7. The components of the amusement ride for which the
 221 affiant, in addition to the manufacturer's requirements and
 222 recommendations, has recommended or required nondestructive
 223 testing.

224 8. The type of nondestructive testing required or
 225 recommended by the affiant in addition to the manufacturer's
 226 requirements and recommendations. If the affiant does not
 227 require or recommend additional nondestructive testing, the
 228 affiant must affirm that the manufacturer's requirements are
 229 sufficient for the safe operation of the amusement ride.

230 9. The frequency of the nondestructive testing as required
 231 or recommended by the affiant.

232 10. That visual nondestructive testing is adequate for the

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amusement ride to be in ~~general~~ conformance with the requirements of this section and all applicable rules, ~~only~~ if only visual nondestructive testing is required ~~or recommended~~ by the manufacturer or the affiant.

11. That the amusement ride is in conformance with the requirements of this section and all applicable department rules.

12. Whether the amusement ride has undergone a major modification and, if so, the name of the manager, owner, or operator who authorized the modification and the date the modification took place.

13. That the amusement ride and its components are in conformance with the service life specified by the manufacturer.

14. That the amusement ride is in conformance with all of the manufacturer's required or recommended bulletins.

(e)(d) Nonvisual nondestructive testing is not required for fun houses, houses of mirrors, haunted houses, mazes, wave pools, wave-making devices, kiddie pools, slides that are fully supported by an earthen mound, nonmotorized playground equipment that requires a manager, or lazy-river-type nonmotorized floating carriers propelled by water.

(8) DEPARTMENT INSPECTIONS.—

(a) In order to obtain an annual or a temporary amusement ride permit, an amusement ride must be inspected by the department.

1. The department may conduct unannounced inspections to observe operations and ensure the amusement ride is being conducted pursuant to proper procedures, to verify that on-duty employees have received proper training, and to observe the

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amusement ride in operation in order to detect unsafe ride conditions that may have occurred following the last inspection. If unsafe conditions are found, the inspector must immediately remove the amusement ride from service to ensure patron safety and follow up with the appropriate administrative actions. ~~A temporary amusement ride is exempt from the required inspection if it is:~~

~~a. Used at a private event;~~

~~b. A simulator, the capacity of which does not exceed 16 persons; or~~

~~c. A kiddie ride used at a public event, provided that not more than three amusement rides are at the event, the kiddie rides at the event do not exceed a capacity of 12 persons, and the kiddie ride passed a department inspection and was issued a permit within the preceding 6 months. The capacity of a kiddie ride shall be determined by department rule, unless the capacity of the ride has been determined and specified by the manufacturer. Any owner or manager of a kiddie ride operating under this exemption is responsible for ensuring that not more than three amusement rides are operated at the event.~~

2. The department shall inspect permanent amusement rides 6 months after the issuance of the annual permit. The required inspection may be waived for a permanent amusement ride if it was inspected and certified by an accredited trade organization as defined by department rule.

(11) EXEMPTIONS.—

(b) All of the following are exempt from subsections (5), (6), (8), and (9), but may be inspected by the department upon request, following a complaint or pursuant to an accident that

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is required to be reported under subsection (15), and such exemption may be removed if the exempted amusement ride is found to have been operating in a manner or circumstance that presents a risk or resulted in a serious injury to patrons:

1. Museums or other institutions principally devoted to the exhibition of products of agriculture, industry, education, science, religion, or the arts.

2. Conventions or trade shows for the sale or exhibit of amusement rides if there are a minimum of 15 amusement rides on display or exhibition and if any operation of such amusement rides is limited to the registered attendees of the convention or trade show.

3. Nonmotorized playground equipment that is not required to have a manager.

4. Coin-actuated amusement rides designed to be operated by depositing coins, tokens, credit cards, debit cards, bills, or other cash money and which are not required to have a manager, and which have a capacity of six persons or less.

5. Facilities described in s. 549.09(1)(a) when such facilities are operating cars, trucks, or motorcycles only.

6. Battery-powered cars or other vehicles that are designed to be operated by children 7 years of age or under and that cannot exceed a speed of 4 miles per hour.

7. Mechanically driven vehicles that pull train cars, carts, wagons, or other similar vehicles, that are not confined to a metal track or confined to an area but are steered by an operator and do not exceed a speed of 4 miles per hour.

8. A water-related amusement ride operated by a business licensed under chapter 509 if the water-related amusement ride

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is an incidental amenity and the operating business is not primarily engaged in providing amusement, pleasure, thrills, or excitement and does not offer day rates.

9. An amusement ride at a private, membership-only facility if the amusement ride is an incidental amenity and the facility is not open to the general public; is not primarily engaged in providing amusement, pleasure, thrills, or excitement; and does not offer day rates.

10. A nonprofit permanent facility registered under chapter 496 which is not open to the general public.

(12) INSPECTION STANDARDS.—An amusement ride must conform to all of the following standards:

(a) All mechanical, structural, and electrical components that affect patron safety must be in good working order.

(b) All control devices, speed-limiting devices, brakes, and safety equipment must be in good working order.

(c) Parts must be properly aligned and may not be bent, distorted, cut, or otherwise injured to force a fit. Parts requiring lubrication must be lubricated in the course of assembly. Fastening and locking devices must be installed when required for safe operation.

(d) Sensors and other limiting devices related to patron safety restraint systems may not be adjusted beyond the prescribed tolerances determined by the manufacturer or by a licensed professional engineer if the manufacturer is no longer in business.

(e) The proper positioning and measurements related to patron safety restraint systems must be provided to the department before the time of inspection. The specifications may

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include redundant restraints, such as seat belts, and must be approved by the ride manufacturer or by a licensed professional engineer if the manufacturer is no longer in business.

(f) An amusement ride must be placed or secured with blocking, cribbing, outriggers, guys, or other means ~~so as~~ to be stable under all operating conditions.

(g) ~~(e)~~ Areas in which patrons may be endangered by the operation of an amusement ride must be fenced, barricaded, or otherwise effectively guarded against inadvertent contact.

(h) ~~(f)~~ Machinery used in or with an amusement ride must be enclosed, barricaded, or otherwise effectively guarded against inadvertent contact.

(i) ~~(g)~~ An amusement ride powered ~~so as~~ to be capable of exceeding its maximum safe operating speed must be provided with a maximum-speed-limiting device.

(j) ~~(h)~~ The interior and exterior parts of all patron-carrying amusement rides with which a patron may come in contact must be smooth and rounded and free from sharp, rough, or splintered edges and corners, and from projecting studs, bolts, and screws or other projections that might cause injury.

(k) ~~(i)~~ Signs that advise or warn patrons of age restrictions, size restrictions, health restrictions, weight limitations, or any other special consideration or use restrictions, or lack thereof, ~~required or recommended for the amusement ride by the manufacturer~~ must be prominently displayed at the patron entrance of each amusement ride. If such rider restrictions are not provided by the manufacturer, the owner or manager must provide the department with documentation from the manufacturer or a licensed professional engineer stating that

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such rider restrictions are not necessary for the safe operation of the amusement ride.

(l) ~~(j)~~ All amusement rides presented for inspection as ready for operation or in operation must comply with this section and department rule.

(m) ~~(k)~~ A sign containing the toll-free number of the department and informing patrons that they may contact the department with complaints or concerns regarding the safe operation of amusement rides must be posted in a manner conspicuous to the public at each entrance of an a temporary amusement ride ~~facility~~. The department shall prescribe by rule specifications for such signs.

(14) ENTRY FOR INSPECTION OR INVESTIGATION.—

(a) Upon presentation of identification, an authorized employee of the department may enter unannounced and inspect amusement rides at any time and in a reasonable manner and has the right to question any owner, operator, or manager; to inspect, investigate, photograph, and sample all pertinent places, areas, and devices and review required documentation; and to conduct or have conducted all appropriate tests, including nondestructive testing. The department may impose fees for unannounced inspections and recover the cost of tests authorized by this subsection.

(b) The department shall prepare a written report of each investigation it conducts.

(15) REPORTING AND INVESTIGATION OF ACCIDENTS AND DEFECTS; IMPOUNDMENTS.—

(a) Any accident of which the owner or manager has knowledge or, through the exercise of reasonable diligence

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should have knowledge, and for which a patron seeks treatment at
~~is transported to~~ a hospital or an urgent care center, as those
terms are defined in chapter 395, must be reported by the owner
 or manager to the department by telephone within 4 hours after
 the occurrence of the accident or after notification by the
patron and must be followed up by a written report to the
 department within 24 hours after the occurrence of the accident
or after notification by the patron.

(c) The department may impound an amusement ride involved
 in an accident for which a patron seeks treatment at ~~is~~
~~transported to~~ a hospital or an urgent care center as those
terms are defined in chapter 395 or which has a mechanical,
 structural, or electrical defect affecting patron safety; may
 impound any other amusement ride of a similar make and model or
with similar operating characteristics; and may perform all
 necessary tests to determine the cause of the accident or the
 mechanical, structural, or electrical defect or to determine the
 safety of the amusement ride and any other amusement ride of a
 similar make and model or with similar operating
characteristics. The cost of impounding the amusement ride and
 performing the necessary tests must be borne by the owner of the
 amusement ride.

(16) INSPECTION BY OWNER OR MANAGER.—Before opening on each
 day of operation and before any inspection by the department,
 the owner or manager of an amusement ride must inspect and test
 each amusement ride to ensure compliance with this section. Each
 inspection must be recorded at the time of inspection on a form
 prescribed by department rule and signed by the person who
 conducted the inspection. In lieu of the form prescribed by

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department rule, the owner or manager may request approval of an
 alternative form that includes, at a minimum, the information
 required on the form prescribed by department rule. Inspection
 records of the last 14 daily inspections must be kept on site by
 the owner or manager and made immediately available to the
 department upon request.

(17) TRAINING OF EMPLOYEES.—

(a) The department shall establish by rule minimum training
and retraining standards and the frequency of employee training
for all amusement rides.

(b) The owner or manager of an amusement ride shall
 maintain a record of employee training for each employee
 authorized to operate, assemble, disassemble, transport, or
 conduct maintenance on an amusement ride on a form prescribed by
 department rule. In lieu of the form prescribed by department
 rule, the owner or manager may request approval of an
 alternative form that includes, at a minimum, the information
 required on the form prescribed by department rule. The training
 record must be kept on site by the owner or manager and made
 immediately available to the department upon request. Training
 may not be conducted when an amusement ride is open to the
 public unless the training is conducted under the supervision of
 an employee who is trained in the operation of that ride. The
 owner or manager shall immediately document all training
following each training session and certify that each employee
 is trained, as required by this section and any rules adopted
 thereunder, on the amusement ride for which the employee is
 responsible.

(19) IMMEDIATE FINAL ORDERS.—

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(a) An amusement ride that fails to meet the requirements of this section or pass the inspections required by this section; that is involved in an accident for which a patron seeks treatment ~~at is transported to~~ a hospital or an urgent care center as those terms are defined in chapter 395; or that has a mechanical, structural, or electrical defect that affects patron safety may be considered an immediate serious danger to the public health, safety, and welfare and, upon issuance of an immediate final order prohibiting patron use of the ride, may not be operated for patron use until it has passed a subsequent inspection by or at the direction of the department.

(b) An amusement ride of a similar make and model or with similar operating characteristics to an amusement ride described in paragraph (a) may be considered an immediate serious danger to the public health, safety, and welfare and, upon issuance of an immediate final order prohibiting patron use of the ride, may not be operated for patron use until it has passed a subsequent inspection by or at the direction of the department.

Section 3. This act shall take effect July 1, 2023.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR GERALDINE F. "GERI"
THOMPSON**
15th District

COMMITTEES:

Children, Families, and Elder Affairs, *Vice Chair*
Agriculture
Appropriations Committee on Education
Appropriations Committee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Fiscal Policy
Judiciary

SELECT COMMITTEE:

Select Committee on Resiliency

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

February 28, 2023

The Honorable Chair Jay Collins
305 Senate Building
400 South Monroe Street
Tallahassee, FL 32399

Dear Chair Collins,

I hereby request that SB 902, the Tyre Sampson Act be placed on the agenda to be heard in the Agriculture Committee. SB 902 strengthens the current Florida statute 616.242, Safety Standards for Amusement Rides in response to the safety issues that were discovered by the Florida Department of Agriculture and Consumer Services during the investigation of the fatality of Tyre Sampson in March 2022.

SB 902 will enhance Florida law by requiring any adjustment or alteration to a ride after inspection and permitting to be reported to FDACS which will then reinspect the ride. This bill will increase training for staff members who operate amusement rides, expand signage display requirements, and increase ride inspection standards.

This bill honors Tyre Sampson's life by tightening our current laws and ensuring that all amusement rides are safe for Floridians and visitors. Please let me know if I can provide further information on SB 902.

Sincerely,

A handwritten signature in cursive script that reads "Geraldine F. Thompson".

Geraldine F. Thompson, SD 15

Cc: The Honorable Jim Boyd, Vice Chair
Katherine Becker, Staff Director
Danna Ivey, Administrative Assistant

REPLY TO:

- ☐ 511 W. South Street, Suite 205, Orlando, Florida 32805 (407) 245-0194
- ☐ 213 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

3/14/2023

Meeting Date

APPEARANCE RECORDDeliver both copies of this form to
Senate professional staff conducting the meeting

SB 902

Bill Number or Topic

Agriculture

733156

Committee

Amendment Barcode (if applicable)

Name **Michael Haggard**Phone **305-446-5700**Address **330 Alhambra Circle, Floor 1**Email **mah@haggardlawfirm.com**

Street

Coral Gables**FL****33134-5004**

City

State

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

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something of value for my appearance
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While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Agriculture

BILL: SB 904

INTRODUCER: Senator Thompson

SUBJECT: Public Records/Active Amusement Ride Investigation

DATE: March 10, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Burse	Becker	AG	Favorable

I. Summary:

SB 904 provides an exemption from public records requirements for investigatory records made or received by the department. The bill provides a statement of public necessity.

The public records exemption would stand repealed on October 2, 2028, unless it is reenacted by the Legislature under the Open Government Sunset Review Act.

This act has a contingent effective date.

II. Present Situation:

Access to Public Records - Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and the statutory provisions are adopted in the rules of each house of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2022-2024) and Rule 14.1, *Rules of the Florida House of Representatives*, (2022-2024).

records.⁴ Lastly, ch. 119, F.S., provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

Chapter 119, F.S., known as the Public Records Act, provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.⁵

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted the statutory definition of “public record” to include “material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”⁷

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.¹⁰ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁸ Section 119.07(1)(a), F.S.

⁹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹⁰ FLA. CONST. art. I, s. 24(c).

¹¹ *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

General exemptions from the public records requirements are contained in the Public Records Act.¹² Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹³

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” Custodians of records designated as “exempt” are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record.¹⁴ Custodians of records designated as “confidential and exempt” may not disclose the record except under circumstances specifically defined by the Legislature.¹⁵

Open Government Sunset Review Act

The Open Government Sunset Review Act¹⁶ (the act) prescribes a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁹

The act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.²⁰

An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;²¹
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²² or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

¹² See, e.g., s. 119.071(1)(a), F.S. (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹³ See, e.g., s. 213.053(2)(a), F.S. (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

¹⁴ See *Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991).

¹⁵ *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹⁶ Section 119.15, F.S.

¹⁷ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

¹⁸ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

In examining an exemption, the act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption. The act requires the Legislature to consider the following specific questions in such a review:²⁴

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁵ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.²⁶

III. Effect of Proposed Changes:

Section 1 creates s. 616.242(14)(b), F.S., creating a public record exemption for investigatory records made or received by the department. The public records exemption would stand repealed on October 2, 2028, unless it is reenacted by the Legislature under the Open Government Sunset Review Act.

Section 2 provides a statement of public necessity which is to allow the department to effectively and efficiently administer s. 616.242, F.S. The bill also provides that releasing such records could jeopardize ongoing investigations. The Legislature finds that the harm that may result from the release of these records outweigh public benefit from the disclosure of the information.

Section 3 provides that this act shall take effect on the same date that SB ____ or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

²⁴ Section 119.15(6)(a), F.S.

²⁵ See *generally* s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

B. Public Records/Open Meetings Issues:**Vote Requirement**

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill creates an exemption, thus, the bill requires a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill creates an exemption, thus, the bill require a two-thirds vote to be enacted.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The exemption in the bill does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 616.242 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Thompson

15-01977A-23

2023904__

A bill to be entitled

An act relating to public records; amending s.

616.242, F.S.; providing an exemption from public

records requirements for all investigatory records

made or received by the Department of Agriculture and

Consumer Services pursuant to an active amusement ride

investigation for a specified timeframe; providing for

future legislative review and repeal of the exemption;

providing a statement of public necessity; providing a

contingent effective date.

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

Section 1. Paragraph (b) of subsection (14) of section 616.242, Florida Statutes, as amended by SB ___, 2023 Regular Session, is amended to read:

616.242 Safety standards for amusement rides.—

(14) ENTRY FOR INSPECTION OR INVESTIGATION.—

(b) The department shall prepare a written report of each investigation it conducts. All investigatory records made or received by the department pursuant to an investigation are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the investigation is completed or ceases to be active. For purposes of this paragraph, an investigation is considered active so long as the department is proceeding with reasonable dispatch and has a reasonable good faith belief that additional information is necessary and likely to be discovered which will allow the department, following an accident, to make a final determination

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15-01977A-23

2023904__

of the cause and circumstances of the accident. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that all investigatory records made or received by the Department of Agriculture and Consumer Services pursuant to an amusement ride investigation by the department pursuant to s. 616.242, Florida Statutes, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution until the investigation is completed or ceases to be active. The premature release of such records could frustrate or thwart the investigation and impair the ability of the department to effectively and efficiently administer s. 616.242, Florida Statutes. In addition, the release of such records before completion of an active investigation could jeopardize the ongoing investigation, thereby affecting the ability of the department to effectively and efficiently administer the investigation. Therefore, the Legislature finds that the harm that may result from the release of investigatory records made or received by the department pursuant to an investigation by the department of a violation of s. 616.242, Florida Statutes, outweighs the public benefit that may be derived from the disclosure of the information.

Section 3. This act shall take effect on the same date that SB ___ or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR GERALDINE F. "GERI"
THOMPSON**
15th District

COMMITTEES:

Children, Families, and Elder Affairs, *Vice Chair*
Agriculture
Appropriations Committee on Education
Appropriations Committee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Fiscal Policy
Judiciary

SELECT COMMITTEE:

Select Committee on Resiliency

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

February 28, 2023

The Honorable Chair Jay Collins
305 Senate Building
400 South Monroe Street
Tallahassee, FL 32399

Dear Chair Collins,

I hereby request that SB 904, Public Records/Active Amusement Ride Investigation be placed on the agenda to be heard in the Agriculture Committee. SB 904 allows for all investigatory records received by the Department of Agriculture and Consumer Services to remain confidential during an active investigation. This bill will allow the FDACS to thoroughly conduct amusement ride investigations effectively and efficiently until the investigation is completed or ceases to be active.

Please let me know if I can provide further information on SB 904.

Sincerely,

A handwritten signature in cursive script that reads "Geraldine F. Thompson".

Geraldine F. Thompson, SD 15

Cc: The Honorable Jim Boyd, Vice Chair
Katherine Becker, Staff Director
Danna Ivey, Administrative Assistant

REPLY TO:

- ☐ 511 W. South Street, Suite 205, Orlando, Florida 32805 (407) 245-0194
- ☐ 213 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Agriculture

BILL: SB 1056

INTRODUCER: Senator Gruters

SUBJECT: Dosage Form Animal Health Products

DATE: March 10, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Burse	Becker	AG	Favorable
2.			AEG	
3.			FP	

I. Summary:

SB 1056 requires a manufacturer or distributor of dosage form animal health products to register with the Department of Agriculture and Consumer Services (department). It authorizes the department to waive the registration requirement under certain conditions and requires specified information for registration applications. The bill also provides conditions under which dosage form animal health products are considered misbranded or adulterated.

The bill takes effect July 1, 2023.

II. Present Situation:

Division of Animal Industry

The Division of Animal Industry is responsible for enforcing animal health regulations in Florida and protecting the state from animal pests and diseases.¹ District veterinarians and animal health inspectors throughout the state work with producers, animal owners and private veterinarians to monitor and enhance the health and welfare of Florida's animals.²

Vermont

In May 2021, Vermont Governor Phil Scott signed Act No. 41 (S.102) into law.³ The law provides rules and fees for registration, labeling requirements, and conditions under which dosage form animal health products are considered misbranded or adulterated.⁴ The law also

¹ See <https://www.fdacs.gov/Divisions-Offices/Animal-Industry> (last visited March 8, 2023).

² *Id.*

³ See <https://legislature.vermont.gov/bill/status/2022/S.102> (last visited March 8, 2023).

⁴ See <https://legislature.vermont.gov/Documents/2022/Docs/ACTS/ACT041/ACT041%20As%20Enacted.pdf> (last visited March 8, 2023).

provides additional rules and administrative penalties for person distributing dosage form animal health product within the state.⁵

Dosage-Form Animal Products

The National Animal Supplement Council (council) defines Dosage-Form Animal Health Products as articles (other than food) intended to affect the structure or any function of the body other than providing nutrition.⁶ The council list the following as examples of Dose-Form Animal Health Product:

- Hip & Joint Support
- Calming Aids
- Antioxidants
- Organ-Specific Support such as heart, bladder or brain
- Immune Support
- Most Herbal Products⁷

III. Effect of Proposed Changes:

SB 1056 provides definitions for the following terms:

- “Brand name”
- “Distribute”
- “Distributor”
- “Dosage form animal health product”
- “Label”
- “Labeling”
- “Manufacture”
- “Manufacturer”
- “Product name”

The bill also requires a manufacturer or distributor of dosage form animal health products to register with the Department of Agriculture and Consumer Services (department). It authorizes the department to waive the registration requirement under certain conditions and requires specified information for registration applications. The bill also provides conditions under which dosage form animal health products are considered misbranded or adulterated. The bill specifies that dosage form animal health products may not be considered commercial feed, a drug, or feedstuff as those terms are defined in s. 580.031, F.S.

The bill takes effect July 1, 2023.

⁵ *Id.*

⁶ See <https://www.nasc.cc/news/how-to-read-a-label/> (last visited March 8, 2023).

⁷ *Id.*

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

This bill may affect dosage form animal health products that are currently on sale. These products may need to be recalled to be accurately labelled and will cost distributors and business owners negatively.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 585.012 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Gruters

22-00860-23

20231056__

A bill to be entitled

An act relating to dosage form animal health products; creating s. 585.012, F.S.; defining terms; requiring a manufacturer or distributor of dosage form animal health products to register with the Department of Agriculture and Consumer Services; authorizing the department to waive the registration requirement under certain conditions and to require specified information for registration applications; providing requirements for product labels; providing conditions under which dosage form animal health products are considered misbranded or adulterated; providing construction; providing an effective date.

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

Section 1. Section 585.012, Florida Statutes, is created to read:

585.012 Dosage form animal health products.-

(1) As used in this section, the term:

(a) "Brand name" means any distinguishing word, name, symbol, or device, or combination thereof, identifying the dosage form animal health product of a manufacturer or distributor.

(b) "Distribute" means to offer for sale, sell, barter, or exchange a dosage form animal health product or to supply, furnish, or otherwise provide such a product for use by any consumer or customer in the state.

(c) "Distributor" means a person or entity that distributes

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dosage form animal health products.

(d) "Dosage form animal health product" means any product, including oils, tinctures, capsules, tablets, liquids, soft chews, and chewable limited dose products, intended to affect the structure or function of an animal's body other than by providing nutrition to the animal. The term does not include animal feed supplements, products represented as a primary meal for the intended animal species, products intended as a snack treat or behavioral reward treat, or dental products providing mechanical or abrasive action.

(e) "Label" means a display of written, printed, or graphic matter upon or affixed to the container in which a dosage form animal health product is distributed, or on the invoice or delivery slip with which the product is distributed.

(f) "Labeling" means all labels and other written, printed, or graphic matter upon a dosage form animal health product or any of its containers; all wrappers accompanying the product; and all advertisements, brochures, posters, or television or radio announcements used in promoting the sale of the product.

(g) "Manufacture" means the grinding, mixing, blending, or further processing of a dosage form animal health product for distribution.

(h) "Manufacturer" means a person or entity that manufactures dosage form animal health products.

(i) "Product name" means the name of a dosage form animal health product which identifies the kind, class, or specific use of the product.

(2) (a) A manufacturer or distributor that manufactures or distributes the finished form of a dosage form animal health

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product in the state must submit a registration application to the department every 2 years as prescribed by department rule.

The department may waive the registration requirement if a manufacturer or distributor is registered under another federal or state law in compliance with department rule.

(b) The department may require a registration application to include a copy of the label and labeling for each dosage form animal health product.

(3) A dosage form animal health product label must contain, at a minimum, all of the following information:

(a) The net weight or count of the product.

(b) The product name and brand name, if any, under which the product is manufactured or distributed.

(c) The established name of each active ingredient in the product and the amount of each active ingredient per serving in descending order by predominance of the ingredient in the product.

(d) The established name of each inactive ingredient in the product and the amount of each inactive ingredient per serving in alphabetical order.

(e) Adequate directions and precautionary statements and warnings necessary to ensure safe and effective use of the product.

(f) The name and principal mailing address of the manufacturer or distributor. Only the name, city, state, and zip code are required for a manufacturer or distributor listed in a local telephone directory.

(g) A structure-function claim stating the intended non-nutritional benefit of the product.

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(h) The expiration date.

(4) A dosage form animal health product is considered misbranded if the product label or labeling:

(a) Does not provide the information required in subsection (3) in a prominent and conspicuous manner which can be easily identified and understood under customary conditions of purchase and use.

(b) Includes the term "guaranteed analysis."

(c) Is false or misleading.

(5) A dosage form animal health product is considered adulterated if:

(a) The product contains any poisonous or deleterious substance that may be injurious to animal health.

(b) Any valuable ingredient of the product has been in whole or in part omitted or removed.

(c) Any valuable ingredient of the product has been in whole or in part substituted by any less valuable ingredient.

(d) The composition or quality of the product falls below or differs from what the label or labeling purports or represents.

(e) The methods or controls used to manufacture or package the product do not conform to current good manufacturing practice.

(6) Dosage form animal health products may not be considered commercial feed, a drug, or feedstuff as those terms are defined in s. 580.031.

Section 2. This act shall take effect July 1, 2023.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JOE GRUTERS

22nd District

COMMITTEES:

Regulated Industries, *Chair*
Appropriations
Appropriations Committee on Agriculture,
Environment, and General Government
Appropriations Committee on Health
and Human Services
Commerce and Tourism
Community Affairs
Transportation

SELECT COMMITTEE:

Select Committee on Resiliency

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight,
Alternating Chair

March 6, 2023

The Honorable Jay Collins, Chair
Committee on Agriculture
335 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Collins:

I am writing to request that Senate Bill 1056, Dosage Form Animal Health Products to be placed on the agenda of the next Agriculture committee meeting.

Should you have any questions regarding this bill, please do not hesitate to reach out to me.
Thank you for your time and consideration.

Warm regards,

A handwritten signature in black ink that reads "Joe Gruters". The signature is written in a cursive, flowing style.

Joe Gruters

Cc: Katherine Becker, Staff Director
Danna Ivey, Committee Administrative Assistant

REPLY TO:

- ☐ 381 Interstate Boulevard, Sarasota, Florida 34240 (941) 378-6309
- ☐ 316 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/13/23

Meeting Date

Agriculture

Committee

SB 1056

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Jonathan Rees

Phone

(850) 570-0043

Address

311 East Park Avenue

Email

JREES@smithbryandmyers.com

Street

Tallahassee

City

FL

State

32301

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

National Animal
Supplement Council

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Agriculture

BILL: SB 1164

INTRODUCER: Senator Collins

SUBJECT: Department of Agriculture and Consumer Services

DATE: March 10, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Burse	Becker	AG	Favorable
2.			AEG	
3.			FP	

I. Summary:

SB 1164 addresses various issues related to agriculture and certain powers and duties of the Department of Agriculture and Consumer Services (department). The bill:

- Creates specific tax exemptions and a Farm Tax Exempt Agricultural Materials (TEAM) card for use by the farmer to claim sales tax exemptions.
- Requires state agencies, universities, and colleges to give preference to food commodities grown or produced in the state in certain purchasing agreements.
- Amends definitions, including but not limited to “milk,” “dairy farm,” “frozen dessert,” “milk transport tank,” and “pasteurization.”
- Permits the department to collect samples for testing from all facilities engaged in the production, processing, holding, or transfer of milk and milk products.
- Removes the prohibition of a person to test for milkfat content. It also removes the prohibition for a person to re-pasteurize milk.
- Decreases the timeline for when the department shall provide written notice and renewal forms from 60 to 30 days.
- Grants the department the authority to regulate the development of aquaculture.
- Eliminates certain rules related to the aquaculture certificate of registration.
- Revises the composition of the Aquaculture Review Council.
- Revises the composition of the Viticulture Advisory Council.
- Eliminates certain agricultural advisory councils.
- Authorizes a non-law enforcement employee of the department, for all lawful purposes within the department’s authority, to use drones.

The bill will have an indeterminate impact on state revenue. See Section V. Fiscal Impact Statement.

II. Present Situation:

Farm Tax Exempt Agricultural Materials

Florida law allows for certain farm or irrigation equipment which are used exclusively on a farm or in a forest in the agricultural production of crops or products produced by those agricultural industries included in s. 570.02(1), F.S. or for fire prevention and suppression work with respect to such crops or products to be exempt from sales tax.¹ In order to be tax exempt the purchaser, renter, or lessee signs a certificate stating that the farm equipment is to be used exclusively as required by law.² The purchaser must submit the exemption certificate to Department of Revenue.³

Georgia Agriculture Tax Exemption (GATE)

The Georgia Agriculture Tax Exemption (GATE) is a program created through legislation, which offers qualified agriculture producers a sales tax exemption on agricultural equipment and production inputs. Qualified farmers and agricultural producers can apply to receive a certificate showing that they are eligible for this exemption⁴. Wallet-sized plastic cards are issued to cardholders and listed additional users. Cards are mailed annually to all active accounts in order to signify the current year of eligibility.⁵

As of the 2019 production year, cards will be issued for a three-year term. This will be implemented through a three year phase-in process. All applications will be processed electronically and will be charged a fee based on the expiration date of their card. A full three-year exemption will cost \$150.⁶

Florida Farm to You Program

In 2020, Florida Farm to You was created by the department as a tool to connect buyers directly to farmers and producers of Florida-grown commodities. Buyers ranged from individuals seeking locally grown products to food banks searching for fresh produce in their own communities to serve families in need during the COVID-19 pandemic.⁷

Soon after the launch, the Florida Farm to You site was improved by adding an interactive, searchable map, along with functionality to help agriculture producers find transportation for their crops from field to market. Gradually, the short-term solution to a need during a pandemic has transformed into a permanent, user-friendly resource to help bring buyers and producers together.⁸

¹ Section 212.08(3)(a), F.S.

² Section 212.08(3)(c), F.S.

³ Section 212.08, F.S.

⁴ See <https://forms.agr.georgia.gov/gate/> (Last visited March 7, 2023).

⁵ See <https://forms.agr.georgia.gov/GATE/downloads/2023-Program-Changes.pdf> (Last visited March 7, 2023).

⁶ *Id.*

⁷ See https://floridafarm.wpengine.com/?page_id=8 (Last visited March 7, 2023).

⁸ *Id.*

Division of Food Safety

The Division of Food Safety is directly responsible for assuring the public of a safe, wholesome and properly represented food supply. They accomplish this through the permitting and inspection of food establishments, inspection and evaluation of food products, and the performance of specialized laboratory testing on a variety of food products sold and/or produced in Florida.⁹

The division proactively monitors food from manufacturing and distribution to retail. They administer and enforce the food and poultry and egg laws, support the enforcement of other food safety laws, and investigate consumer complaints related to food.¹⁰

Dairy Industry Inspections

The department is charged with the regulation of all dairy facilities and related operations in the state. The department provides oversight of all Grade “A” dairy farms, Grade “A” processing plants, single service facilities, tanker washes, bulk milk haulers, manufactured milk processing plants, dairy distribution facilities and wholesale frozen dessert and/or ice cream mix facilities.¹¹

The Grade “A” dairy program is a cooperative program with the U.S. Food and Drug Administration (FDA). The department and the FDA work together to ensure the safety of all dairy products produced in Florida. To ensure the program is being administered in accordance with FDA and the National Conference on Interstate Milk Shipments, FDA Regional Milk Specialists conduct routine inspections and program evaluations to evaluate the effective implementation of the Pasteurized Milk Ordinance, as adopted in Florida Administrative Code.¹²

Dairy Industry Technical Council

The Dairy Industry Technical Council is created within the department and shall be composed of seven members, including:

- Two citizens of the state, one of whom shall be associated with the Agricultural Extension Service of the University of Florida and the other with the College of Agricultural and Life Sciences of the University of Florida.
- An employee of the Department of Health.
- Two dairy farmers who are actively engaged in the production of milk in this state and who earn a major portion of their income from the production of milk.
- Two distributors of milk. “Distributor” means a milk dealer who operates a milk gathering station or processing plant where milk is collected and bottled or otherwise processed and prepared for sale.¹³

The meetings, powers and duties, procedures, and recordkeeping of the Dairy Industry Technical Council shall be pursuant to s. 570.232, F.S.¹⁴

⁹ See <https://www.fdacs.gov/Divisions-Offices/Food-Safety> (Last visited March 7, 2023).

¹⁰ *Id.*

¹¹ See <https://www.fdacs.gov/Business-Services/Food/Dairy-Industry-Inspections> (Last visited March 7, 2023).

¹² *Id.*

¹³ Section 502.301, F.S.

¹⁴ Section 502.301, F.S.

State Agricultural Advisory Council

The State Agricultural Advisory Council was created within the department and is composed of 33 members, with an alternate for each member, to be appointed by the Commissioner of Agriculture (commissioner)¹⁵. There is one at-large member and one member, each with an alternate, that each represents 32 agricultural or trade interests.¹⁶ The meetings, powers and duties, procedures, and recordkeeping of the State Agricultural Advisory Council are pursuant to s. 570.232.¹⁷

Florida Young Farmer and Rancher Advisory Council

The Florida Young Farmer and Rancher Advisory Council was created within the department and is composed of 12 members to be appointed by the commissioner.¹⁸ The council may submit to the commissioner, annually, findings and recommendations for mitigating challenges facing aspiring farmers and ranchers in the early stages of their careers. The council may examine issues that include, but are not limited to, access to land, availability of credit and capital, and access to business skills training.¹⁹

Industrial Hemp Advisory Council

The Industrial Hemp Advisory Council was established to provide advice and expertise to the department with respect to plans, policies, and procedures applicable to the administration of the state hemp program.²⁰ The council is composed 15 members including two members appointed by the Governor, two members appointed by the President of the Senate, two members appointed by the Speaker of the House of Representatives and others.²¹

Animal Industry Technical Council

The Animal Industry Technical Council is created within the department and is composed of 14 members representing various areas in the animal industry, including beef cattle, swine, dairy, horses, and meat processing and packing establishments.²² The meetings, powers and duties, procedures, and recordkeeping of the Animal Industry Technical Council are pursuant to s. 570.232.²³

¹⁵ Section 570.23, F.S.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Section 570.843, F.S.

¹⁹ *Id.*

²⁰ Section 581.217(14), F.S.

²¹ *Id.*

²² Section 585.008, F.S.

²³ *Id.*

Fertilizer

When domestic wastewater is treated a solid byproduct accumulates, which is called biosolids or is more commonly known as “sewage sludge.” This byproduct is high in organic content and contains moderate amounts of nutrients that are needed by plants. These characteristics make biosolids valuable as a soil conditioner and fertilizer.²⁴

Properly treated biosolids may be used as a fertilizer supplement or soil amendment, subject to regulatory requirements that have been established to protect public health and the environment. These requirements include pollutant limits, treatment to destroy harmful microorganisms, and management practices for land application sites. Biosolids may be used by application to land in farming and ranching operations, forest lands, and public areas such as parks, or in land reclamation projects such as restoration of mining properties. The highest quality of biosolids, known in Florida as “Class AA,” are distributed and marketed like other commercial fertilizers.^{25,26}

Lawn and garden fertilizers are typically manufactured with three primary nutrients: nitrogen (N), phosphorus (P), and potassium (K), all of which are required for plant growth. However, if applied in excess or at the wrong time, such as before a rainstorm, they may be transported to ground or surface waters. These nutrients can cause problems when they reach waterways by causing increased growth of harmful algae which can smother corals or block sunlight needed for coral growth.²⁷

Aquaculture Review Council

The Aquaculture Review Council (ARC) was created by Florida statute to provide a means of communication between the aquaculture industry and the department. The council consists of eight members, the aquaculture representative on the State Agriculture Advisory Council and seven additional members appointed by the commissioner.²⁸

The ARC meets at least quarterly. It is the responsibility of the ARC to recommend rules and policies governing the aquaculture industry to the commissioner. The ARC annually submits a list of recommendations for short-term research projects designed to address research priorities identified in the state aquaculture plan. It reviews and discusses problems that act as barriers to the growth and development of aquaculture and has been key in the continued growth of the aquaculture industry in Florida.²⁹

²⁴ See <https://floridadep.gov/water/domestic-wastewater/content/domestic-wastewater-biosolids> (Last visited March 7, 2023).

²⁵ See <https://floridadep.gov/water/domestic-wastewater/content/domestic-wastewater-biosolids> (Last visited March 7, 2023).

²⁶ See Chapter 62-640, F.A.C.

²⁷ See https://floridadep.gov/sites/default/files/LBSP_24_Fertilizer.pdf (Last visited March 7, 2023).

²⁸ See <https://www.fdacs.gov/About-Us/Advisory-Councils-and-Committees/Aquaculture-Review-Council> (Last visited March 7, 2023).

²⁹ *Id.*

Viticulture Advisory Council

The commissioner, in consultation with the Viticulture Advisory Council, develops and coordinates the implementation of the State Viticulture Plan, which identifies problems and constraints of the viticulture industry, proposes possible solutions to those problems, and develops planning mechanisms for the orderly growth of the industry, including but not limited to:

- Criteria for viticultural research, service, and management priorities;
- The potential for viticulture products in terms of market and needs for development;
- Evaluation of wine policy alternatives, including, but not limited to, continued improvement in wine quality, blending considerations, promotion and advertising, labeling and vineyard designations, and development of production and marketing strategies;
- Research and service priorities for further development of the viticulture industry; and
- Business planning, investment potential, financial risks, and economics of production and utilization.³⁰

Aquaculture

The Florida Aquaculture Policy Act established that aquaculture is agriculture, and consolidated state regulatory responsibilities under the department. Florida's aquaculture industry produces the greatest variety of aquatic species of any state in the nation. Moreover, aquaculture is Florida's most diverse agribusiness. The state's subtropical climate, extensive marine and freshwater resources, cargo shipping infrastructure, and extensive coastline have made the state's aquaculture industry uniquely diverse. There are approximately 1,000 certified aquaculture farms in Florida, located in every region of the state, which produce an estimated 1,500 varieties of fish, aquatic plants, mollusks, crustaceans, turtles, amphibians, and alligators for ornamental, food and bait markets as well as for sporting, conservation, and educational purposes.³¹³²

Drones

Section 934.50, F.S., provides the guidelines for law enforcement and non-law enforcement use of drones.³³ Currently an employee of the Fish and Wildlife Conservation Commission or of the Florida Forest Service may use drones for the purposes of managing and eradicating invasive exotic plants or animals on public lands and suppressing and mitigating wildfire threats.³⁴

III. Effect of Proposed Changes:

Section 1 creates s. 287.0823, F.S., to create specific tax exemptions and a Farm Tax Exempt Agricultural Materials (TEAM) card for use by a farmer to claim the applicable sales tax exemptions. The department shall adopt these rules by January 1, 2024.

³⁰ Section 599.003, F.S.

³¹ See <https://www.fdacs.gov/content/download/91723/file/FDACS-P-02145-2020FLAquacultureIndustryOverview.pdf> (last visited March 7, 2023).

³² Ch. 597, F.S.

³³ Section 934.50, F.S.

³⁴ *Id.*

Section 2 grants the Department of Revenue the authority to adopt emergency rules to for the purpose of implementing the FARM card.

Section 3 amends s. 213.053, F.S., to grant the Department of Revenue to make information available to the Department of Agriculture and Consumer Services (department) for the purpose of administering or issuing the FARM card.

Section 4 creates s. 287.0823, F.S., to require state agencies, universities, and colleges to give preference to food commodities grown or produced in the state in certain purchasing agreements and provides conditions for such a preference.

Section 5 amends s. 500.03, F.S., to revise the definition of “bottled water,” removing the reference to the Code of Federal Regulations. It removes the definitions of “convenience store,” “food outlet,” “food service establishment,” and “retail food store.”

Section 6 amends s. 500.032, F.S., to revise the charge of the department to include the storage of food.

Section 7 amends s. 500.12, F.S., to remove retail food stores from statute as the “retail food stores” definition has been deleted. It also establishes expiration periods for new or existing food permits.

Section 8 amends s. 500.121, F.S., to remove retail food stores from statute as the “retail food stores” definition has been deleted.

Section 9 amends s. 500.147, F.S., to conform to the revision of the definition of “bottled water,” removing the reference to the Code of Federal Regulations and replacing it with department rule.

Section 10 amends s. 500.172, F.S., to add “mislabeled” to list of potential violations in chapter.

Section 11 amends s. 502.0129, F.S., to define “bulk milk hauler/sampler” to mean a person who collects official samples and transports raw milk. It also revises the definitions of “bulk milk pickup tanker,” “dairy farm,” “frozen dessert,” “frozen desserts plant,” “milk plant,” “milk transport tank,” “raw milk,” “reconstituted milk or milk products” or “recombined milk or milk products,” “retail,” “ultra-pasteurization,” and “wholesale.” The following definitions are removed from statute: “frozen desserts manufacturer,” “frozen desserts retail establishment,” and “frozen dietary dairy dessert” “quiescently frozen confection,” “quiescently frozen dairy confection.”

Section 12 amends s. 502.013, F.S., to delete the purpose of the section regulating the shelf life of milk and milk products in the state.

Section 13 amends s. 502.014, F.S., to permit the department to collect samples for testing from all facilities engaged in the production, processing, holding, or transfer of milk and milk products.

Section 14 amends s. 502.042, F.S., to delete provisions related to shelf-life studies.

Section 15 amends s. 502.053, F.S., to revise the requirement of which facilities must apply to the department for a permit to operate. It deletes certain reporting requirements for frozen dessert plant permit holders. It also amends exemptions to milk hauler permit requirements.

Section 16 amends s. 502.181, F.S., to remove the prohibition for a person to test for milkfat content. It also removes the prohibition for a person to repasteurize milk.

Section 17 amends s. 502.231, F.S., to revise requirements for the imposition of an administrative fine.

Section 18 eliminates the Dairy Industry Technical Council.

Section 19 creates s. 570.16, F.S., to require each licensee to notify the department of the licensee's email address and provides conditions for violations and notices.

Section 20 eliminates State Agricultural Advisory Council.

Section 21 eliminates Florida Young Farmer and Rancher Advisory Council.

Section 22 amends 570.93, F.S., which is a technical amendment with the additional requirement of s. 403.067(7)(c), F.S.

Section 23 amends s. 576.011, F.S. to define "controlled release fertilizers" and "fertilizer material." It also revises definitions for "grade" and "slow release fertilizer."

Section 24 eliminates the Industrial Hemp Advisory Council.

Section 25 eliminates the Animal Industry Technical Council.

Section 26 amends s. 586.045, F.S., to decrease the timeframe of when the department shall provide written notice and renewal forms from 60 to 30 days.

Section 27 amends s. 595.404, F.S., to add the authority to adopt and implement an exemption waiver process by rule, as required by federal regulations, for sponsors under the programs implemented pursuant to this chapter, notwithstanding s. 120.542, F.S., to the powers and duties of the department.

Section 28 amends s. 597.003, F.S., to grant the department with the authority to regulate the development of aquaculture and must submit list of proposed projects to be funded upon appropriation by the legislature.

Section 29 amends s. 597.004, F.S., to eliminate certain rules related to the aquaculture certificate of registration. It provides the licensing authorities for shellfish processing facilities, facilities operated by various agencies, and facilities culturing crocodilians of the order of *Crocodylia*. It also provides that aquaculture products may be sold without restriction as long as product origin is identified, with the exception of shellfish and prohibited and restricted nonnative species identified in the Aquaculture Best Management Practices manual.

Section 30 amends s. 597.005, F.S., to revise the composition of the Aquaculture Review Council. It also provides the council must submit list of proposed research projects to be funded upon appropriation by the legislature.

Section 31 amends s. 599.002, F.S., to revise the composition of the Viticulture Advisory Council.

Section 32 amends s. 934.50, F.S., to authorize a non-law enforcement employee of the Florida Department of Agriculture and Consumer Services, for all lawful purposes within the department's authority, the use of drones.

Section 33 reenacts s. 373.016, F.S., to conform provisions of this section to change made in the bill.

Section 34 reenacts s. 373.223, F.S., to conform provisions of this section to change made in the bill.

Section 35 reenacts s. 373.701, F.S., to conform provisions of this section to change made in the bill.

Section 36 provides that this act shall take effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The tax exemptions from the Farm Tax Exempt Agricultural Materials (TEAM) card may impact the sales tax collected from farming equipment.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Requiring state agencies, universities, and colleges to give preference to Florida grown food commodities will positively impact local farms and communities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 212.0802, 213.053, 500.03, 500.032, 500.12, 500.121, 500.147, 500.172, 502.012, 502.013, 502.014, 502.042, 502.053, 502.181, 502.231, 570.161, 570.93, 576.011, 586.045, 595.404, 597.003, 597.004, 597.005, 599.002, and 934.50.

This bill creates the following section of the Florida Statutes: 287.0823.

This bill repeals the following sections of the Florida Statutes: 502.301, 570.23, 570.843, 581.217 and 585.008.

The bill reenacts the following sections of the Florida Statutes: 373.016, 373.223, and 373.701.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Collins

14-01283-23

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1 A bill to be entitled
 2 An act relating to the Department of Agriculture and
 3 Consumer Services; creating s. 212.0802, F.S.;
 4 authorizing farmers whose property meets certain
 5 requirements to apply to the Department of Revenue for
 6 a Florida farm tax exempt agricultural materials
 7 (TEAM) card; providing the purpose of the Florida farm
 8 TEAM card; providing that the Florida farm TEAM card
 9 is subject to certain review and expiration
 10 provisions; requiring the department to adopt rules;
 11 authorizing the Department of Agriculture and Consumer
 12 Services to take certain administrative actions
 13 regarding the Florida farm TEAM card; authorizing the
 14 Department of Revenue to adopt emergency rules;
 15 providing for the expiration of such authority;
 16 amending s. 213.053, F.S.; authorizing the Department
 17 of Revenue to make certain information available to
 18 the Department of Agriculture and Consumer Services
 19 for the purpose of administering the Florida farm TEAM
 20 card; creating s. 287.0823, F.S.; requiring by a
 21 specified date all food commodities purchased by
 22 certain state entities to be grown or produced in this
 23 state under certain circumstances; requiring such
 24 state entities to give preference to certain food
 25 commodities; authorizing certain agreements or state
 26 contracts to give preference to certain vendors;
 27 requiring the Department of Management Services to
 28 provide an annual report to the Governor, the Cabinet,
 29 and the Legislature by a specified date; providing

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30 requirements for the report; amending s. 500.03, F.S.;
 31 revising, redefining, and deleting terms; revising
 32 construction regarding the selling of food; amending
 33 s. 500.032, F.S.; requiring the Department of
 34 Agriculture and Consumer Services to administer and
 35 enforce certain provisions relating to the storage of
 36 food; amending s. 500.12, F.S.; revising the types of
 37 entities required to obtain food permits from the
 38 department; conforming provisions to changes made by
 39 the act; requiring food permits to be annually renewed
 40 in accordance with certain provisions; requiring late
 41 fees for applications not received on or before their
 42 due date; amending s. 500.121, F.S.; conforming
 43 provisions to changes made by the act; amending s.
 44 500.147, F.S.; requiring bottled water to be processed
 45 in conformance with department rule; amending s.
 46 500.172, F.S.; authorizing an agent of the department
 47 to take specified actions regarding mislabeled food;
 48 reordering and amending s. 502.012, F.S.; defining,
 49 revising, and redefining terms; amending s. 502.013,
 50 F.S.; revising the purpose of certain provisions
 51 regarding milk and milk products; amending s. 502.014,
 52 F.S.; revising the authority of the department to
 53 permit and collect samples of products for testing at
 54 certain facilities; amending s. 502.042, F.S.;
 55 deleting a provision requiring the department to
 56 periodically conduct certain shelf-life studies and to
 57 sample certain milk products; making technical
 58 changes; amending s. 502.053, F.S.; revising the milk

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59 facilities required to apply for a permit to operate;
 60 requiring operating permits for certain frozen dessert
 61 plants; deleting a requirement that frozen dessert
 62 plant permitholders submit specified reports to the
 63 department; conforming provisions to changes made by
 64 the act; amending s. 502.181, F.S.; deleting
 65 prohibitions against certain testing for milkfat
 66 content and for repasteurizing milk; amending s.
 67 502.231, F.S.; conforming a provision to changes made
 68 by the act; repealing s. 502.301, F.S., relating to
 69 the Dairy Industry Technical Council; creating s.
 70 570.161, F.S.; requiring certain licensees or permit
 71 holders to notify the department in writing of the
 72 person's e-mail address; providing civil penalties;
 73 providing that service by e-mail constitutes adequate
 74 and sufficient notice; authorizing the department to
 75 achieve service by other specified means under certain
 76 circumstances; repealing ss. 570.23 and 570.843, F.S.,
 77 relating to the State Agricultural Advisory Council
 78 and the Florida Young Farmer and Rancher Advisory
 79 Council, respectively; amending s. 570.93, F.S.;
 80 revising the required contents of the department's
 81 agricultural water conservation program; amending s.
 82 576.011, F.S.; defining and redefining terms;
 83 repealing ss. 581.217(14) and 585.008, F.S., relating
 84 to the Industrial Hemp Advisory Council and the Animal
 85 Industry Technical Council, respectively; amending s.
 86 586.045, F.S.; revising the timeframe during which the
 87 department is required to provide written notice and

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88 forms to beekeepers for annual certificate of
 89 registration renewals; amending s. 595.404, F.S.;
 90 requiring the department to adopt and implement an
 91 exemption, waiver, and variance process by rule for
 92 sponsors of certain school food and other nutrition
 93 programs; amending s. 597.003, F.S.; revising the
 94 powers and duties of the department regarding the
 95 regulation of aquaculture in this state; providing
 96 construction; amending s. 597.004, F.S.; deleting
 97 requirements for rules adopted by the department for
 98 aquaculture certificates of registration; deleting
 99 provisions authorizing certain alligator producers to
 100 be issued aquaculture certificates of registration;
 101 providing legislative intent; preempting to the
 102 department the regulatory and permitting authority for
 103 all aquaculture products; providing construction;
 104 revising the types of aquaculture products that may be
 105 sold by an aquaculture producer under certain
 106 circumstances; amending s. 597.005, F.S.; revising the
 107 composition and responsibilities of the Aquaculture
 108 Review Council; amending s. 599.002, F.S.; revising
 109 the composition of the Viticulture Advisory Council;
 110 amending s. 934.50, F.S.; authorizing non-law
 111 enforcement employees of the department to use drones
 112 for specified purposes; reenacting ss. 373.016(4)(a),
 113 373.223(3), and 373.701(2)(a), F.S., relating to
 114 declarations of state water policy and conditions for
 115 a permit, respectively, to incorporate the amendment
 116 made by this act to s. 500.03, F.S., in references

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thereto; providing an effective date.

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

Section 1. Section 212.0802, Florida Statutes, is created to read:

212.0802 Florida Farm Tax Exempt Agricultural Materials Card.—

(1) Notwithstanding any other law, a farmer whose property has been classified as agricultural pursuant to s. 193.461 or who has implemented agricultural best management practices adopted by the Department of Agriculture and Consumer Services pursuant to s. 403.067(7)(c)2. may apply to the Department of Revenue for a Florida farm tax exempt agricultural materials (TEAM) card to claim the applicable sales tax exemptions provided by s. 212.08. A farmer may present the Florida farm TEAM card to a selling dealer in lieu of a certificate or affidavit otherwise required by this chapter.

(2) The Florida farm TEAM card is subject to the review and expiration provisions of s. 212.084.

(3) The department shall adopt rules to administer this section. The Department of Agriculture and Consumer Services may take all actions necessary for the administration, issuance, and distribution of the Florida farm TEAM cards to farmers registered with the department.

Section 2. (1) The Department of Revenue may, and all conditions are deemed met to, adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing s. 212.0802, Florida Statutes.

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(2) Notwithstanding any other law, emergency rules adopted pursuant to this section are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

Section 3. Subsection (24) is added to section 213.053, Florida Statutes, to read:

213.053 Confidentiality and information sharing.—

(24) The department may make available to the Department of Agriculture and Consumer Services, exclusively for official purposes, information for the purposes of administering or issuing the Florida farm tax exempt agricultural materials card pursuant to s. 212.0802.

Section 4. Section 287.0823, Florida Statutes, is created to read:

287.0823 Preference to commodities grown or produced in Florida.—

(1) By 2025 or upon expiration of any existing food service contract, whichever is earlier, all food commodities purchased by an agency, a state university, a Florida College System institution, or any contracted food service provider thereof must be grown or produced in this state when available, practical, and feasible.

(2) Notwithstanding any other provision of this section, and to the extent authorized by federal law, such state agencies, state universities, Florida College System institutions, and contracted food service providers thereof shall give preference to food commodities grown or produced in this state when purchasing food commodities, including farm

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products as defined in s. 823.14, produced in this state of any class, variety, or use thereof in their natural state or as processed by a farm operation or processor for the purpose of marketing such product.

(3) A purchasing agreement, state term contract, or contract for the purchase of food commodities required to be awarded to the lowest responsive and responsible vendor may give preference over other vendors to an otherwise qualified vendor who agrees to fulfill the contract through the use of food commodities grown or produced in this state over other vendors, provided that the price included in the bid, proposal, or reply for the food commodities grown or produced in this state is not more than 10 percent greater than the price included in a bid, proposal, or reply for food commodities grown or produced outside of this state.

(4) By November 1, 2023, and each November 1 thereafter, the department shall prepare and submit a report to the Governor and Cabinet, the President of the Senate, and the Speaker of the House of Representatives which describes the amount of food commodities grown or produced in this state which were purchased according to the requirements of this section. Any agency, state university, Florida College System institution, or contracted food service provider thereof that purchases food commodities shall cooperate with the department to provide the information required to prepare this report. The report must contain, at a minimum, all of the following information:

(a) The total expenditures on, and the quantity purchased of, food commodities by each agency, state university, and Florida College System institution.

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(b) The total expenditures on, and the quantity purchased of, food commodities grown or produced in this state by each agency, state university, and Florida College System institution.

(c) The total expenditures of each agency, state university, and Florida College System institution on food commodities grown or produced outside of this state.

(d) A statement and assessment of the good faith efforts of, and any failures by, each state agency, state university, or Florida College System institution, or any contracted food service provider thereof, to comply with this section.

Section 5. Paragraphs (d), (i), (p), (q), (r), and (bb) of subsection (1) and subsection (3) of section 500.03, Florida Statutes, are amended to read:

500.03 Definitions; construction; applicability.—

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

(d) "Bottled water" means water intended for human consumption and sealed in a bottle or other container with no added ingredients, except that it may contain safe and suitable antimicrobial agents ~~a beverage, as described in 21 C.F.R. part 165 (2006), that is processed in compliance with 21 C.F.R. part 129 (2006).~~

~~(i) "Convenience store" means a business that is engaged primarily in the retail sale of groceries or motor fuels or special fuels and may offer food services to the public. Businesses providing motor fuel or special fuel to the public which also offer groceries or food service are included in the definition of a convenience store.~~

(o) ~~(p)~~ "Food establishment" means a factory, food outlet,

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 233 or other facility manufacturing, processing, packing, holding,
 234 storing, or preparing food or selling food at wholesale or
 235 retail. The term does not include a business or activity ~~that is~~
 236 regulated under s. 413.051, s. 500.80, chapter 509, or chapter
 237 601. The term includes tomato packinghouses and repackers but
 238 does not include any other establishments that pack fruits and
 239 vegetables in their raw or natural states, including those
 240 fruits or vegetables that are washed, colored, or otherwise
 241 treated in their unpeeled, natural form before they are
 242 marketed.

(q) ~~"Food outlet" means any grocery store; convenience
 244 store; minor food outlet; meat, poultry, or fish and related
 245 aquatic food market; fruit or vegetable market; food warehouse;
 246 refrigerated storage facility; freezer locker; salvage food
 247 facility; or any other similar place storing or offering food
 248 for sale.~~

(r) ~~"Food service establishment" means any place where food
 250 is prepared and intended for individual portion service, and
 251 includes the site at which individual portions are provided. The
 252 term includes any such place regardless of whether consumption
 253 is on or off the premises and regardless of whether there is a
 254 charge for the food. The term includes delicatessens that offer
 255 prepared food in individual service portions. The term does not
 256 include schools, institutions, fraternal organizations, private
 257 homes where food is prepared or served for individual family
 258 consumption, retail food stores, the location of food vending
 259 machines, cottage food operations, and supply vehicles, nor does
 260 the term include a research and development test kitchen limited
 261 to the use of employees and which is not open to the general~~

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 262 ~~public.~~
 263 ~~(bb) "Retail food store" means any establishment or section
 264 of an establishment where food and food products are offered to
 265 the consumer and intended for off-premises consumption. The term
 266 includes delicatessens that offer prepared food in bulk
 267 quantities only. The term does not include establishments which
 268 handle only prepackaged, nonpotentially hazardous foods;
 269 roadside markets that offer only fresh fruits and fresh
 270 vegetables for sale; food service establishments; or food and
 271 beverage vending machines.~~

(3) For the purpose of this chapter, the selling of food
 273 includes the manufacture, production, processing, packing,
 274 exposure, offer, possession, and holding of any article of food
 275 for sale; the sale, dispensing, and giving of any article of
 276 food; and the supplying to or applying of food in the conduct of
 277 any food establishment.

Section 6. Subsection (1) of section 500.032, Florida
 279 Statutes, is amended to read:

500.032 Declaration of policy and cooperation among
 281 departments.—

(1) The department shall administer and enforce ~~is charged
 283 with the administration and enforcement of~~ this chapter in order
 284 to prevent fraud, harm, adulteration, misbranding, or false
 285 advertising in the preparation, manufacture, storage, or sale of
 286 articles of food. The department shall ~~It is further charged to~~
 287 enforce the provisions of this chapter relating to the
 288 production, manufacture, transportation, storage, and sale of
 289 food, as well as articles entering into, and intended for use as
 290 ingredients in the preparation of, food.

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Section 7. Paragraphs (a), (b), and (e) of subsection (1), subsection (2), paragraph (a) of subsection (5), and subsection (8) of section 500.12, Florida Statutes, are amended to read:

500.12 Food permits; building permits.—

(1) (a) A food permit from the department is required of any person who operates a food establishment ~~or retail food store~~, except:

1. Persons operating minor food outlets that sell food that is commercially prepackaged, not potentially hazardous, and not time or temperature controlled for safety, if the shelf space for those items does not exceed 12 total linear feet and no other food is sold by the minor food outlet.

2. Persons subject to continuous, onsite federal or state inspection.

3. Persons selling only legumes in the shell, either parched, roasted, or boiled.

4. Persons selling sugar cane or sorghum syrup that has been boiled and bottled on a premise located within this the state. Such bottles must contain a label listing the producer's name and street address, all added ingredients, the net weight or volume of the product, and a statement that reads, "This product has not been produced in a facility permitted by the Florida Department of Agriculture and Consumer Services."

(b) Each food establishment ~~and retail food store~~ regulated under this chapter must apply for and receive a food permit before operation begins. An application for a food permit from the department must be accompanied by a fee in an amount determined by department rule. The department shall adopt by rule a schedule of fees to be paid by each food establishment

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~~and retail food store~~ as a condition of issuance or renewal of a food permit. Such fees may not exceed \$650 and ~~must~~ shall be used solely for the recovery of costs for the services provided, except that the fee accompanying an application for a food permit for operating a bottled water plant may not exceed \$1,000 and the fee accompanying an application for a food permit for operating a packaged ice plant may not exceed \$250. The fee for operating a bottled water plant or a packaged ice plant must ~~shall~~ be set by rule of the department. Food permits are not transferable from one person or physical location to another. Food permits must be renewed in accordance with subparagraphs 1., 2., and 3. annually on or before January 1. If an application for renewal of a food permit is not received by the department on or before ~~within 30 days after~~ its due date, a late fee not exceeding \$100 must be paid in addition to the food permit fee before the department may issue the food permit. The moneys collected must ~~shall~~ be deposited in the General Inspection Trust Fund.

1. A food permit issued to a new food establishment on or after September 1, 2023, is valid for 1 calendar year after the date of issuance and must be renewed annually on or before that date thereafter.

2. Beginning December 31, 2023, a food permit issued before September 1, 2023, expires on the month and day the initial permit was issued to the food establishment and must be renewed annually on or before that date thereafter.

3. The owner of 100 or more permitted food establishment locations may elect to set the expiration of food permits for such establishments as December 31 of each calendar year.

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(e) The department is the exclusive regulatory and permitting authority for all ~~food outlets, retail food stores, food establishments, convenience stores, and minor food outlets~~ in accordance with this section. Application for a food permit must be made on forms provided by the department, which forms must also contain provision for application for registrations and permits issued by other state agencies and for collection of the food permit fee and any other fees associated with registration, licensing, or applicable surcharges. The details of the application must ~~shall~~ be prescribed by department rule.

(2) When any person applies for a building permit to construct, convert, or remodel any food establishment, ~~food outlet, or retail food store~~, the authority issuing such permit shall make available to the applicant a printed statement, provided by the department, regarding the applicable sanitation requirements for such establishments. A building permitting authority, or municipality or county under whose jurisdiction a building permitting authority operates, may not be held liable for a food establishment, ~~food outlet, or retail food store~~ that does not comply with the applicable sanitation requirements due to failure of the building permitting authority to provide the information as provided in this subsection.

(a) The department shall furnish, for distribution, a statement that includes the checklist to be used by the food inspector in any preoperational inspections to assure that the food establishment is constructed and equipped to meet the applicable sanitary guidelines. Such preoperational inspection is ~~shall be~~ a prerequisite for obtaining a food permit in accordance with this section.

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(b) The department may provide assistance, when requested by the applicant, in the review of any construction or remodeling plans for food establishments. The department may charge a fee for such assistance which covers the cost of providing the assistance and which must ~~shall~~ be deposited in the General Inspection Trust Fund for use in funding the food safety program.

(c) A building permitting authority or other subdivision of local government may not require the department to approve construction or remodeling plans for food establishments and ~~retail food stores~~ as a condition of any permit or license at the local level.

(5) It is the intent of the Legislature to eliminate duplication of regulatory inspections of food. Regulatory and permitting authority over any food establishment is preempted to the department, except as provided in chapter 379.

(a) Food establishments ~~or retail food stores~~ that have ancillary food service activities shall be permitted and inspected by the department.

(8) A person who applies for or renews a local business tax certificate to engage in business as a food establishment ~~or retail food store~~ must exhibit a current food permit or an active letter of exemption from the department before the local business tax certificate may be issued or renewed.

Section 8. Subsection (1) of section 500.121, Florida Statutes, is amended to read:

500.121 Disciplinary procedures.—

(1) In addition to the suspension procedures provided in s. 500.12, if applicable, the department may impose an

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administrative fine in the Class II category pursuant to s.
 570.971 against any ~~retail food store~~, food establishment, or
 cottage food operation that violates this chapter, which fine,
 when imposed and paid, ~~must shall~~ be deposited by the department
 into the General Inspection Trust Fund. The department may
 revoke or suspend the permit of any such ~~retail food store or~~
 food establishment if it is satisfied that the ~~retail food store~~
~~or~~ food establishment has:

(a) Violated this chapter.

(b) Violated or aided or abetted in the violation of any
 law of this state governing or applicable to ~~retail food stores~~
~~or~~ food establishments or any lawful rules of the department.

(c) Knowingly committed, or been a party to, any material
 fraud, misrepresentation, conspiracy, collusion, trick, scheme,
 or device whereby another person, lawfully relying upon the
 word, representation, or conduct of a ~~retail food store or~~ food
 establishment, acts to her or his injury or damage.

(d) Committed any act or conduct of the same or different
 character than that enumerated which constitutes fraudulent or
 dishonest dealing.

Section 9. Paragraph (a) of subsection (3) of section
 500.147, Florida Statutes, is amended to read:

500.147 Inspection of food establishments, food records,
 and vehicles.—

(3) For bottled water plants:

(a) Bottled water must be from an approved source. Bottled
 water must be processed in conformance with department rule 21
~~C.F.R. part 129 (2006), and must conform to 21 C.F.R. part 165~~
~~(2006)~~. A person operating a bottled water plant is ~~shall be~~

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responsible for all water sampling and analyses required by this
 chapter.

Section 10. Subsection (1) of section 500.172, Florida
 Statutes, is amended to read:

500.172 Embargoing, detaining, destroying of food, food
 processing equipment, or areas that are in violation.—

(1) When the department, or its duly authorized agent who
 has received appropriate education and training regarding the
 legal requirements of this chapter, finds or has probable cause
 to believe that any food, food processing equipment, food
 processing area, or food storage area is in violation of this
 chapter or any rule adopted under this chapter so as to be
 dangerous, unwholesome, mislabeled, fraudulent, or insanitary
 within the meaning of this chapter, an agent of the department
 may issue and enforce a stop-sale, stop-use, removal, or hold
 order, which order gives notice that such article, processing
 equipment, processing area, or storage area is or is suspected
 of being in violation and has been detained or embargoed and
 which order warns all persons not to remove, use, or dispose of
 such article, processing equipment, processing area, or storage
 area by sale or otherwise until permission for removal, use, or
 disposal is given by the department or the court. A person may
 not remove, use, or dispose of such detained or embargoed
 article, processing equipment, processing area, or storage area
 by sale or otherwise without such permission.

Section 11. Section 502.012, Florida Statutes, is reordered
 and amended to read:

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

(1) "Bulk milk hauler/sampler" means a person who collects

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official samples and transports raw milk from a farm or raw milk products to or from a milk plant, receiving station, or transfer station and is permitted to sample the milk products by any state regulatory agency charged with implementing the United States Food and Drug Administration's Grade "A" program.

(2) "Bulk milk pickup tanker" means a vehicle, including the truck and tank, and those appurtenances necessary for its use necessary attachments, that is used by a milk hauler to transport bulk raw milk for pasteurization, ultra-pasteurization, aseptic processing and packaging, or retort processing after packaging from a dairy farm to a milk plant, receiving station, or transfer station.

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

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

(5)(4) "Frozen dessert" means a specific standardized frozen dessert described in 21 C.F.R. part 135, excluding part 135.160 and any other food defined by rule of the department that resembles such standardized frozen dessert but does not conform to the specific description of such standardized frozen dessert in 21 C.F.R. part 135. The term includes, but is not limited to, a quiescently frozen confection, a quiescently frozen dairy confection, a frozen dietary dairy dessert, and a frozen dietary dessert.

(5) "Frozen desserts manufacturer" means a person who

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~~manufactures, processes, converts, partially freezes, or freezes any mix or frozen dessert for distribution or sale.~~

(6) "Frozen desserts plant" means any place that pasteurizes dairy products or receives raw milk for the purpose of manufacturing or processing frozen desserts location or premises at which frozen desserts or mix are manufactured, processed, or frozen for distribution or sale at wholesale.

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

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

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

(8)(10) "Imitation milk and imitation milk products" means those foods that have the physical characteristics, such as taste, flavor, body, texture, or appearance, of milk or milk products as defined in this chapter and the Grade "A" pasteurized milk ordinance but do not come within the definition of "milk" or "milk products" and are nutritionally inferior to

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the product imitated.

~~(9)-(11)~~ "Milk" means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows, goats, sheep, water buffalo, or other hooved mammals.

~~(10)-(12)~~ "Milk distributor" means any person who offers for sale or sells to another person any milk or milk product.

~~(15)-(13)~~ "Milk products" means products made with milk that is processed in some manner, including being whipped, acidified, cultured, concentrated, lactose-reduced, or sodium-reduced or aseptically processed, or having the addition or subtraction of milkfat, the addition of safe and suitable microbial organisms, or the addition of safe and suitable optional ingredients for protein, vitamin, or mineral fortification. The term does "Milk products" do not include products such as evaporated milk, condensed milk, eggnog in a rigid metal container, dietary products, infant formula, or ice cream and other desserts.

~~(18)-(14)~~ "Milkfat" or "butterfat" means the fat contained in milk.

~~(11)-(15)~~ "Milk hauler" means any person who transports raw milk or raw milk products to or from a milk plant, receiving station, or transfer station.

~~(12)-(16)~~ "Milk plant" means any place, premises, or establishment where milk or milk products are collected, handled, processed, stored, pasteurized, ultra-pasteurized, aseptically processed and packaged, retort processed after packaging, condensed, dried, packaged, bottled, or prepared for distribution.

~~(13)-(17)~~ "Milk plant operator" means any person responsible

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for receiving, processing, pasteurizing, or packaging milk and milk products, or performing any other related operation.

~~(14)-(18)~~ "Milk producer" means any person who operates a dairy farm and provides, sells, or offers for sale milk to a milk plant, receiving station, or transfer station.

~~(16)-(19)~~ "Milk tank truck" means either a bulk milk pickup tanker or a milk transport tank.

~~(17)-(20)~~ "Milk transport tank" means a vehicle, including the truck and tank, used by a bulk milk hauler/sampler or a milk hauler to transport bulk shipments of milk from a milk plant, receiving station, or transfer station to another milk plant, receiving station, or transfer station.

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

~~(22)~~ "Quiescently frozen dairy confection" means a clean and wholesome frozen product made from water, milk products, and sugar, with added harmless pure or imitation flavoring, with or without added harmless coloring, with or without added

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581 ~~stabilizer, or with or without added emulsifier, that, while~~
 582 ~~being frozen, was not stirred or agitated (generally known as~~
 583 ~~quiescent freezing). The confection must not contain less than~~
 584 ~~13 percent by weight of total milk solids, less than 33 percent~~
 585 ~~by weight of total food solids, more than 0.5 percent by weight~~
 586 ~~of stabilizer, or more than 0.2 percent by weight of emulsifier.~~
 587 ~~Stabilizer and emulsifier must be composed of wholesome, edible~~
 588 ~~material. In the production of a quiescently frozen dairy~~
 589 ~~confection, processing or mixing before quiescently freezing~~
 590 ~~that develops in the finished confection mix any physical~~
 591 ~~expansion in excess of 10 percent may not be used.~~

592 (19)(23) "Raw milk" means unpasteurized unprocessed milk.

593 (20)(24) "Receiving station" means any place, premises, or
 594 establishment where raw milk is received, collected, handled,
 595 stored, or cooled and is prepared for further transporting.

596 (21) "Reconstituted milk or milk products" or "recombined
 597 milk or milk products" means milk or milk products that result
 598 from reconstituting or recombining milk constituents with
 599 potable water.

600 (22) "Retail" means the sale of goods to the public for use
 601 or consumption rather than for resale.

602 (23)(25) "Substitute milk and substitute milk products"
 603 means those foods that have the physical characteristics, such
 604 as taste, flavor, body, texture, or appearance, of milk or milk
 605 products as defined in this chapter and the Grade "A"
 606 pasteurized milk ordinance but do not come within the definition
 607 of "milk" or "milk products" and are nutritionally equivalent to
 608 the product for which they are substitutes.

609 (24)(26) "Transfer station" means any place, premises, or

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610 establishment where milk or milk products are transferred
 611 directly from one milk tank truck to another.

612 (25) "Ultra-pasteurization (UP)" means a process in which
 613 milk or milk product is thermally processed at or above 138
 614 degrees Celsius or 280 degrees Fahrenheit for at least 2
 615 seconds, before or after packaging, so as to produce a milk or
 616 milk product that has an extended shelf life under refrigerated
 617 conditions.

618 (26)(27) "Washing station" means any place, premises, or
 619 establishment where milk tank trucks are cleaned and sanitized.

620 (27) "Wholesale" means the selling of goods in quantity to
 621 be retailed by others.

622 Section 12. Paragraph (d) of subsection (1) of section
 623 502.013, Florida Statutes, is amended to read:

624 502.013 Purpose; intent.—

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

626 ~~(d) Ensure the normal flow of fresh wholesome milk and milk~~
 627 ~~products from the farmer to the consumer by uniform regulation~~
 628 ~~of the shelf life of milk and milk products in this state.~~

629 Section 13. Paragraph (a) of subsection (2) of section
 630 502.014, Florida Statutes, is amended to read:

631 502.014 Powers and duties.—

632 (2) (a) The department shall permit, conduct onsite
 633 inspections of, and collect samples for testing from all
 634 facilities engaged in the production, processing, holding, or
 635 transfer of milk and milk products dairy farms, milk plants, and
 636 frozen dessert plants and collect test samples of milk, milk
 637 products, and frozen desserts as required by this chapter.

638 Section 14. Section 502.042, Florida Statutes, is amended

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to read:

502.042 Labeling of shelf life.—To ensure consumers full disclosure of the date beyond which milk or milk products may no longer be offered for sale, all dairy processors ~~must shall~~ establish, and legibly label as prescribed by rule of the department, the maximum shelf-life period during which milk and milk products may be offered for sale. For purposes of this requirement, the term ~~to~~ "legibly label" means to label the package or container with conspicuous and easily readable boldfaced print or type in distinct contrast to the background, by color. ~~The department shall periodically conduct shelf-life studies to review the keeping quality of milk and milk products and shall sample periodically the products of the dairy processors to determine if the shelf-life dating used by the processors complies with the minimum standards of quality.~~

Section 15. Paragraphs (a) and (b) of subsection (1), paragraph (d) of subsection (3), and paragraphs (a) and (c) of subsection (4) of section 502.053, Florida Statutes, are amended to read:

502.053 Permits and fees; requirements; exemptions; temporary permits.—

(1) PERMITS.—

(a) All facilities engaged in the production, processing, holding, or transfer of milk and milk products ~~Each Grade "A" milk plant, whether located in the state or outside the state, and each manufacturing milk plant, milk producer, milk hauler, milk hauling service, washing station operator, milk plant operator, milk distributor, single service container manufacturer, receiving station, and transfer station in this~~

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~~the state~~ must shall apply to the department for a permit to operate. The application must shall be on forms developed by the department.

(b) Each frozen dessert plant, ~~whether located in the state or outside the state,~~ that manufactures frozen desserts or other products defined in this chapter and offers these products for wholesale ~~for sale~~ in this state must apply to the department for a permit to operate. The application must be submitted on a form ~~forms~~ prescribed by the department. All frozen dessert permits expire on June 30 of each year.

(3) REQUIREMENTS.—

~~(d) Each frozen dessert plant permit holder must report monthly, quarterly, semiannually, or annually, as required by the department, the number of gallons of frozen dessert or frozen dessert mix sold or manufactured by the permit holder in this state.~~

(4) EXEMPTIONS.—

(a) The following persons are ~~shall be~~ exempt from bulk milk hauler/sampler ~~hauler~~ permit requirements:

1. Milk producers who transport milk or milk products only from their own dairy farms.

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

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

~~(e) Frozen desserts retail establishments as defined in s. 502.012 are exempt from this chapter.~~

Section 16. Subsections (1) and (4) of section 502.181, Florida Statutes, are amended to read:

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697 502.181 Prohibited acts.—It is unlawful for any person in
 698 this state to:
 699 (1) Engage in the business of producing, hauling,
 700 transferring, receiving, processing, packaging, or distributing
 701 milk, milk products, or frozen desserts or operating a washing
 702 station, manufacturing single-service containers, or
 703 manufacturing imitation or substitute milk or milk products, ~~or~~
 704 ~~testing for milkfat content,~~ without first obtaining a permit or
 705 license from the department.
 706 ~~(4) Repasteurize milk.~~
 707 Section 17. Paragraph (b) of subsection (1) of section
 708 502.231, Florida Statutes, is amended to read:
 709 502.231 Penalty and injunction.—
 710 (1) The department may enter an order imposing one or more
 711 of the following penalties against any person who violates any
 712 provision of this chapter:
 713 (b) Imposition of an administrative fine:
 714 1. In the Class II category pursuant to s. 570.971 for each
 715 violation in the case of a frozen dessert licensee; or
 716 2. ~~Ten percent of the license fee or \$100, whichever is~~
 717 ~~greater, for failure to report the information described in s.~~
 718 ~~502.053(3)(d); or~~
 719 ~~3.~~ In the Class I category pursuant to s. 570.971 for each
 720 occurrence for any other violation.
 721
 722 When imposing a fine under this paragraph, the department must
 723 consider the degree and extent of harm caused by the violation,
 724 the cost of rectifying the damage, the benefit to the violator,
 725 whether the violation was committed willfully, and the

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726 violator's compliance record.
 727 Section 18. Section 502.301, Florida Statutes, is repealed.
 728 Section 19. Section 570.161, Florida Statutes, is created
 729 to read:
 730 570.161 E-mail address of record.—
 731 (1) In addition to any other requirement set forth in law,
 732 each person licensed or permitted by the department shall notify
 733 the department in writing of the person's e-mail address. The
 734 failure to notify the department of a change in any e-mail
 735 address provided to the department constitutes a violation of
 736 this section and may be subject to the penalties provided in s.
 737 570.971(3).
 738 (2) (a) Notwithstanding any other provision of law, service
 739 by e-mail to a person's e-mail address of record constitutes
 740 adequate and sufficient notice when required by law, except when
 741 other service is required pursuant to s. 120.60.
 742 (b) If the department receives notification that service by
 743 e-mail, as authorized by this section, has failed, the
 744 department may provide notice to the person by calling the
 745 person's last known telephone number of record, mailing the
 746 notice to the last known address, or posting a short, plain
 747 notice to the person on the department's website.
 748 Section 20. Section 570.23, Florida Statutes, is repealed.
 749 Section 21. Section 570.843, Florida Statutes, is repealed.
 750 Section 22. Upon the expiration and reversion of the
 751 amendment made to section 570.93, Florida Statutes, pursuant to
 752 section 63 of chapter 2022-157, Laws of Florida, paragraph (a)
 753 of subsection (1) of section 570.93, Florida Statutes, is
 754 amended to read:

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570.93 Department of Agriculture and Consumer Services;
agricultural water conservation and agricultural water supply
planning.—

(1) The department shall establish an agricultural water
conservation program that includes the following:

(a) A cost-share program, coordinated ~~where appropriate~~
with the United States Department of Agriculture and other
federal, state, regional, and local agencies, when appropriate,
for irrigation system retrofit and application of mobile
irrigation laboratory evaluations, and for water conservation as
provided in this section and, where applicable, for water
quality improvement pursuant to s. 403.067(7)(c).

Section 23. Present subsections (8) through (13) and (14)
through (44) of section 576.011, Florida Statutes, are
redesignated as subsections (9) through (14) and (16) through
(46), respectively, new subsections (8) and (15) are added to
that section, and present subsections (15), (19), and (36) of
that section are amended, to read:

576.011 Definitions.—When used in this chapter, the term:

(8) “Controlled release fertilizers” means a slow release
fertilizer engineered to provide nutrients over time at a
predictable rate under specified conditions.

(15) “Fertilizer material” means a fertilizer that meets
one of the following requirements:

(a) Contains important quantities of no more than one of
the primary nutrients: nitrogen (N), phosphate (P₂O₅), and potash
(K₂O).

(b) Has 85 percent or more of its plant nutrient content
present in the form of a single chemical compound.

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(c) Is derived from a plant or an animal residue or
byproduct or a natural material deposit that has been processed
in such a way that its content of plant nutrients has not been
materially changed except by purification and concentration.

~~(17)-(15)~~ “Grade” means the percentages in fertilizer of
total nitrogen expressed as N, available phosphorus expressed as
P₂O₅, and soluble potassium expressed as K₂O, stated in whole
numbers in the same terms, order, and percentages as in the
guaranteed analysis. However, specialty fertilizer may be
guaranteed in fractional units of less than 1 percent of total
nitrogen, available phosphate, and soluble potash. Fertilizer
materials, bone meal, manures, and similar materials may be
guaranteed in fractional units in that order.

~~(21)-(19)~~ “Labeling” means all labels and other written,
printed, or graphic matters upon an article or any of its
containers or wrappers, ~~or~~ accompanying such article.

~~(38)-(36)~~ “Slow ~~or~~ controlled release fertilizer” means a
fertilizer in a form that releases, or converts to a plant-
available form, plant nutrients at a slower rate relative to an
appropriate reference soluble product containing a plant
nutrient in a form which delays its availability for plant
uptake and use after application, or which extends its
availability to the plant significantly longer than a reference
“rapidly available nutrient fertilizer,” such as ammonium
nitrate or urea, ammonium phosphate, or potassium chloride.

Section 24. Subsection (14) of section 581.217, Florida
Statutes, is repealed.

Section 25. Section 585.008, Florida Statutes, is repealed.

Section 26. Subsection (4) of section 586.045, Florida

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Statutes, is amended to read:

586.045 Certificates of registration and inspection.—

(4) The department shall provide to each person subject to this section written notice and renewal forms at least 30 60 days before ~~prior to~~ the annual renewal date informing the person of the certificate of registration renewal date and the application fee.

Section 27. Subsection (16) is added to section 595.404, Florida Statutes, to read:

595.404 School food and other nutrition programs; powers and duties of the department.—The department has the following powers and duties:

(16) To adopt and implement an exemption, waiver, and variance process by rule, as required by federal regulations, for sponsors under the programs implemented pursuant to this chapter, notwithstanding s. 120.542.

Section 28. Section 597.003, Florida Statutes, is amended to read:

597.003 Powers and duties of Department of Agriculture and Consumer Services.—

(1) The department is ~~hereby designated as~~ the lead agency in regulating and encouraging the development of aquaculture in this the state and has ~~shall have~~ and shall exercise the following functions, powers, and duties with regard to aquaculture:

(a) Issue or deny aquaculture certificates that identify aquaculture producers and aquaculture products, and collect all related fees. The department may revoke an aquaculture certificate of registration issued pursuant to s. 597.004 upon a

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finding that aquaculture is not the primary purpose of the certified entity's operation.

(b) Coordinate the development, annual revision, and implementation of a state aquaculture plan. The plan must ~~shall~~ include prioritized recommendations for research and development as suggested by the Aquaculture Review Council and public and private institutional research, extension, and service programs.

(c) Develop memoranda of agreement, as needed, with the Department of Environmental Protection, the Fish and Wildlife Conservation Commission, the Florida Sea Grant Program, and other groups as provided in the state aquaculture plan.

(d) Provide staff for the Aquaculture Review Council.

(e) Forward the annually revised state aquaculture plan to the commissioner and to the chairs of the House Committee on Agriculture and Consumer Services and the Senate Committee on Agriculture 1 month before ~~prior to~~ submission of the department's legislative budget request to the Governor.

(f) Upon the appropriation of funds by the Legislature, submit the list of research and development projects proposed to be funded through the department as identified in the state aquaculture plan, ~~along with the department's legislative budget request~~ to the Governor, the President of the Senate, and the Speaker of the House of Representatives. ~~If funded,~~ These projects must ~~shall~~ be contracted for by the Division of Aquaculture and must ~~shall~~ require public-private partnerships, when appropriate. The contracts must ~~shall~~ require a percentage of the profit generated by the project to be deposited into the General Inspection Trust Fund solely for funding aquaculture projects recommended by the Aquaculture Review Council.

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871 (g) Provide developmental assistance to the various sectors
872 of the aquaculture industry as determined in the state
873 aquaculture plan.

874 (h) Assist persons seeking to engage in aquaculture when
875 applying for the necessary permits and serve as ombudsman to
876 resolve complaints or otherwise resolve problems arising between
877 aquaculture producers and regulatory agencies.

878 (i) Develop and propose to the Legislature legislation
879 necessary to implement the state aquaculture plan or to
880 otherwise encourage the development of aquaculture in this the
881 state.

882 (j) Issue or deny any license or permit authorized or
883 delegated to the department by the Legislature or through
884 memorandum of understanding with other state or federal agencies
885 that furthers the intent of the Legislature to place the
886 regulation of aquaculture in the department.

887 (k) Make available state lands and the water column for the
888 purpose of producing aquaculture products when the aquaculture
889 activity is compatible with state resource management goals,
890 environmental protection, and proprietary interest and when such
891 state lands and waters are determined to be suitable for
892 aquaculture development by the Board of Trustees of the Internal
893 Improvement Trust Fund pursuant to s. 253.68; provide training
894 as necessary to lessees; and be responsible for all saltwater
895 aquaculture activities located on sovereignty submerged land or
896 in the water column above such land and adjacent facilities
897 directly related to the aquaculture activity.

898 1. The department shall act in cooperation with other state
899 and local agencies and programs to identify and designate

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900 sovereignty lands and waters that would be suitable for
901 aquaculture development.

902 2. The department shall identify and evaluate specific
903 tracts of sovereignty submerged lands and water columns in
904 various areas of the state to determine where such lands and
905 waters are suitable for leasing for aquaculture purposes.
906 ~~Nothing in~~ This subparagraph or subparagraph 1. does not shall
907 preclude the applicant from applying for sites identified by the
908 applicant.

909 3. The department shall provide assistance in developing
910 technologies applicable to aquaculture activities, evaluate
911 practicable production alternatives, and provide agreements to
912 develop innovative culture practices.

913 (1) Act as a clearinghouse for aquaculture applications,
914 and act as a liaison between the Fish and Wildlife Conservation
915 Commission, the Division of State Lands, the Department of
916 Environmental Protection district offices, other divisions
917 within the Department of Environmental Protection, and the water
918 management districts. The Department of Agriculture and Consumer
919 Services is ~~shall be~~ responsible for regulating marine
920 aquaculture producers, except as specifically provided herein.

921 (2) The specific delegation of authority granted under
922 subsection (1) is intended to place responsibility and may not
923 be construed so as to prevent the respective state agencies from
924 cooperating with each other by exchanging information and
925 providing copies of reports when deemed advisable.

926 (3) The department may employ such persons as are necessary
927 to perform its duties under this chapter.

928 Section 29. Present subsections (3) through (6) of section

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929 597.004, Florida Statutes, are redesignated as subsections (4)
 930 through (7), respectively, a new subsection (3) is added to that
 931 section, and paragraphs (b) and (g) of subsection (2), present
 932 subsection (3), and paragraph (a) of present subsection (5) of
 933 that section are amended, to read:

934 597.004 Aquaculture certificate of registration.—

935 (2) RULES.—

936 ~~(b) Rules adopted pursuant to this subsection shall become~~
 937 ~~effective pursuant to the applicable provisions of chapter 120,~~
 938 ~~but must be submitted to the President of the Senate and the~~
 939 ~~Speaker of the House of Representatives for review by the~~
 940 ~~Legislature. The rules shall be referred to the appropriate~~
 941 ~~committees of substance and scheduled for review during the~~
 942 ~~first available regular session following adoption. Except as~~
 943 ~~otherwise provided by operation of law, such rules shall remain~~
 944 ~~in effect until rejected or modified by act of the Legislature.~~

945 ~~(g) Any alligator producer with an alligator farming~~
 946 ~~license and permit to establish and operate an alligator farm~~
 947 ~~shall be issued an aquaculture certificate of registration~~
 948 ~~pursuant to this section. This chapter does not supersede the~~
 949 ~~authority under chapter 379 to regulate alligator farms and~~
 950 ~~alligator farmers.~~

951 (3) INSPECTIONS OF AQUACULTURE PRODUCTS.—The Legislature
 952 intends to eliminate duplication of regulatory inspections of
 953 aquaculture products. The regulatory and permitting authority
 954 over all aquaculture products as defined in s. 597.0015 is
 955 preempted to the department.

956 (a) Shellfish processing facilities are licensed pursuant
 957 to s. 597.020.

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958 (b) Facilities operated by state agencies, local
 959 governments, educational institutions, research institutions, or
 960 restoration organizations which maintain aquaculture products
 961 for educational, scientific, demonstration, experimental, or
 962 restoration activities related to aquaculture are licensed
 963 pursuant to this section.

964 (c) Facilities culturing crocodilians of the order
 965 Crocodylia are dually regulated by the department and the Fish
 966 and Wildlife Conservation Commission. Any alligator producer
 967 issued an aquaculture certificate of registration pursuant to
 968 this section must also maintain an alligator farming license
 969 from the Fish and Wildlife Conservation Commission. This chapter
 970 does not supersede the authority under chapter 379 to regulate
 971 alligator farms and alligator farmers.

972 (4)(3) FEES.—Effective July 1, 1997, All fees collected
 973 pursuant to this section shall be deposited into the General
 974 Inspection Trust Fund in the Department of Agriculture and
 975 Consumer Services.

976 (6)(5) SALE OF AQUACULTURE PRODUCTS.—

977 (a) Aquaculture products, except shellfish, ~~snook,~~ and any
 978 fish of the genus *Micropterus*, excluding *Micropterus salmoides*
 979 ~~floridanus~~, and prohibited and restricted nonnative freshwater
 980 and marine species identified in the Aquaculture Best Management
 981 Practices manual by rules of the Fish and Wildlife Conservation
 982 Commission, may be sold by an aquaculture producer certified
 983 pursuant to this section or by a dealer licensed pursuant to
 984 part VII of chapter 379 without restriction so long as the
 985 product origin can be identified.

986 Section 30. Subsection (1) and paragraph (c) of subsection

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987 (3) of section 597.005, Florida Statutes, are amended, and
 988 paragraph (e) of subsection (3) of that section is reenacted, to
 989 read:

990 597.005 Aquaculture Review Council.—

991 (1) COMPOSITION.—There is created within the department the
 992 Aquaculture Review Council to consist of eight members ~~as~~
 993 ~~follows: the chair of the State Agricultural Advisory Council or~~
 994 ~~designee and seven additional members to be~~ appointed by the
 995 commissioner, including an alligator farmer, a food fish farmer,
 996 a shellfish farmer, a tropical fish farmer, an aquatic plant
 997 farmer, a representative of the commercial fishing industry, and
 998 a representative of the aquaculture industry at large. Members
 999 shall be appointed for 4-year terms. Each member shall be
 1000 selected from no fewer than two or more than three nominees
 1001 submitted by recognized statewide organizations representing
 1002 each industry segment or the aquaculture industry at large. In
 1003 the absence of nominees, the commissioner shall appoint persons
 1004 who otherwise meet the qualifications for appointment to the
 1005 council. Members shall serve until their successors are duly
 1006 qualified and appointed. An appointment to fill a vacancy shall
 1007 be for the unexpired portion of the term.

1008 (3) RESPONSIBILITIES.—The primary responsibilities of the
 1009 Aquaculture Review Council are to:

1010 (c) Submit to the commissioner on an annual basis:

1011 1. Upon the appropriation of funds by the Legislature, a
 1012 prioritized list of research projects to be funded by the
 1013 department included in the department's legislative budget
 1014 ~~request~~. Each year, the council shall review the aquaculture
 1015 legislative budget requests submitted to the department and rank

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1016 them according to the state aquaculture plan.

1017 2. Recommendations to be forwarded to the Speaker of the
 1018 House of Representatives and the President of the Senate on
 1019 legislation needed to help the aquaculture industry.

1020 3. Recommendations on aquaculture projects, activities,
 1021 research, and regulation and other needs to further the
 1022 development of the aquaculture industry.

1023 (e) Assist the department in carrying out duties identified
 1024 in s. 597.003 by studying aquaculture issues and making
 1025 recommendations for regulating and permitting aquaculture and in
 1026 the development, revision, and implementation of the state
 1027 aquaculture plan.

1028 Section 31. Subsection (1) of section 599.002, Florida
 1029 Statutes, is amended to read:

1030 599.002 Viticulture Advisory Council.—

1031 (1) There is created within the Department of Agriculture
 1032 and Consumer Services the Viticulture Advisory Council, to
 1033 consist of eight members as follows: the president of the
 1034 Florida Grape Growers' Association or a designee thereof; ~~the~~
 1035 ~~viticulture representative of the State Agricultural Advisory~~
 1036 ~~Council~~; a representative from the Institute of Food and
 1037 Agricultural Sciences; a representative from the viticultural
 1038 science program at Florida Agricultural and Mechanical
 1039 University; and five ~~four~~ additional commercial members, to be
 1040 appointed for a 2-year term each by the Commissioner of
 1041 Agriculture, including a wine producer, a fresh fruit producer,
 1042 a nonwine product (juice, jelly, pie fillings, etc.) producer,
 1043 and a viticultural nursery operator.

1044 Section 32. Paragraph (q) is added to subsection (4) of

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1045 section 934.50, Florida Statutes, to read:

1046 934.50 Searches and seizure using a drone.—

1047 (4) EXCEPTIONS.—This section does not prohibit the use of a

1048 drone:

1049 (q) By a non-law enforcement employee of the Department of

1050 Agriculture and Consumer Services for activities for the

1051 purposes of managing and eradicating plant or animal diseases.

1052 Section 33. For the purpose of incorporating the amendment

1053 made by this act to section 500.03, Florida Statutes, in a

1054 reference thereto, paragraph (a) of subsection (4) of section

1055 373.016, Florida Statutes, is reenacted to read:

1056 373.016 Declaration of policy.—

1057 (4) (a) Because water constitutes a public resource

1058 benefiting the entire state, it is the policy of the Legislature

1059 that the waters in the state be managed on a state and regional

1060 basis. Consistent with this directive, the Legislature

1061 recognizes the need to allocate water throughout the state so as

1062 to meet all reasonable-beneficial uses. However, the Legislature

1063 acknowledges that such allocations have in the past adversely

1064 affected the water resources of certain areas in this state. To

1065 protect such water resources and to meet the current and future

1066 needs of those areas with abundant water, the Legislature

1067 directs the department and the water management districts to

1068 encourage the use of water from sources nearest the area of use

1069 or application whenever practicable. Such sources shall include

1070 all naturally occurring water sources and all alternative water

1071 sources, including, but not limited to, desalination,

1072 conservation, reuse of nonpotable reclaimed water and

1073 stormwater, and aquifer storage and recovery. Reuse of potable

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1074 reclaimed water and stormwater shall not be subject to the

1075 evaluation described in s. 373.223(3)(a)-(g). However, this

1076 directive to encourage the use of water, whenever practicable,

1077 from sources nearest the area of use or application shall not

1078 apply to the transport and direct and indirect use of water

1079 within the area encompassed by the Central and Southern Florida

1080 Flood Control Project, nor shall it apply anywhere in the state

1081 to the transport and use of water supplied exclusively for

1082 bottled water as defined in s. 500.03(1)(d), nor shall it apply

1083 to the transport and use of reclaimed water for electrical power

1084 production by an electric utility as defined in s. 366.02(4).

1085 Section 34. For the purpose of incorporating the amendment

1086 made by this act to section 500.03, Florida Statutes, in a

1087 reference thereto, subsection (3) of section 373.223, Florida

1088 Statutes, is reenacted to read:

1089 373.223 Conditions for a permit.—

1090 (3) Except for the transport and use of water supplied by

1091 the Central and Southern Florida Flood Control Project, and

1092 anywhere in the state when the transport and use of water is

1093 supplied exclusively for bottled water as defined in s.

1094 500.03(1)(d), any water use permit applications pending as of

1095 April 1, 1998, with the Northwest Florida Water Management

1096 District and self-suppliers of water for which the proposed

1097 water source and area of use or application are located on

1098 contiguous private properties, when evaluating whether a

1099 potential transport and use of ground or surface water across

1100 county boundaries is consistent with the public interest,

1101 pursuant to paragraph (1)(c), the governing board or department

1102 shall consider:

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(a) The proximity of the proposed water source to the area of use or application.

(b) All impoundments, streams, groundwater sources, or watercourses that are geographically closer to the area of use or application than the proposed source, and that are technically and economically feasible for the proposed transport and use.

(c) All economically and technically feasible alternatives to the proposed source, including, but not limited to, desalination, conservation, reuse of nonpotable reclaimed water and stormwater, and aquifer storage and recovery.

(d) The potential environmental impacts that may result from the transport and use of water from the proposed source, and the potential environmental impacts that may result from use of the other water sources identified in paragraphs (b) and (c).

(e) Whether existing and reasonably anticipated sources of water and conservation efforts are adequate to supply water for existing legal uses and reasonably anticipated future needs of the water supply planning region in which the proposed water source is located.

(f) Consultations with local governments affected by the proposed transport and use.

(g) The value of the existing capital investment in water-related infrastructure made by the applicant.

Where districtwide water supply assessments and regional water supply plans have been prepared pursuant to ss. 373.036 and 373.709, the governing board or the department shall use the applicable plans and assessments as the basis for its

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consideration of the applicable factors in this subsection.

Section 35. For the purpose of incorporating the amendment made by this act to section 500.03, Florida Statutes, in a reference thereto, paragraph (a) of subsection (2) of section 373.701, Florida Statutes, is reenacted to read:

373.701 Declaration of policy.—It is declared to be the policy of the Legislature:

(2) (a) Because water constitutes a public resource benefiting the entire state, it is the policy of the Legislature that the waters in the state be managed on a state and regional basis. Consistent with this directive, the Legislature recognizes the need to allocate water throughout the state so as to meet all reasonable-beneficial uses. However, the Legislature acknowledges that such allocations have in the past adversely affected the water resources of certain areas in this state. To protect such water resources and to meet the current and future needs of those areas with abundant water, the Legislature directs the department and the water management districts to encourage the use of water from sources nearest the area of use or application whenever practicable. Such sources shall include all naturally occurring water sources and all alternative water sources, including, but not limited to, desalination, conservation, reuse of nonpotable reclaimed water and stormwater, and aquifer storage and recovery. Reuse of potable reclaimed water and stormwater shall not be subject to the evaluation described in s. 373.223(3) (a)-(g). However, this directive to encourage the use of water, whenever practicable, from sources nearest the area of use or application shall not apply to the transport and direct and indirect use of water

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1161 within the area encompassed by the Central and Southern Florida
1162 Flood Control Project, nor shall it apply anywhere in the state
1163 to the transport and use of water supplied exclusively for
1164 bottled water as defined in s. 500.03(1)(d), nor shall it apply
1165 to the transport and use of reclaimed water for electrical power
1166 production by an electric utility as defined in s. 366.02(4).

1167 Section 36. This act shall take effect July 1, 2023.

The Florida Senate

APPEARANCE RECORD

3/13/23

Meeting Date

1164

Bill Number or Topic

Agriculture

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Kelly Friend

Phone (850) 617-7700

Address 400 S Monroe St - PL 10

Email kelly.friend@flsenate.gov

Tallahassee

City

FL

State

32399

Zip

Speaking: ☐ For ☐ Against ☒ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

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3/13/23

Meeting Date

Agriculture

Committee

1164

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Jim Spratt

Phone

850-228-1296

Address

PO Box 10011

Email

Jim@magoliastrategiesllc.com

Street

TAUHAASSEE

City

FL

State

32302

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:

Florida Nursery, Growers & Landscape
Association



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

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3/13

Meeting Date

SB 1164

Bill Number or Topic

Agriculture

Committee

Amendment Barcode (if applicable)

Name Landon Hoffman

Phone _____

Address 2058 FL Ave

Street

Email _____

Tallahassee FL

City

State

32303

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

FL Citrus Mutual

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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3/13/23

Meeting Date

Senate Ag

Committee

SB 1164

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Courtney Larkin

Phone

850-209-0061

Address

310 W College Avenue

Street

Email

Courtney.larkin@ffbf.org

Tallahassee

City

FL

State

32301

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Florida Farm Bureau
Federation

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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The Florida Senate

3/13/23

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1164

Meeting Date

Bill Number or Topic

Agriculture

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Committee

Amendment Barcode (if applicable)

Name **Isabelle Garbarino**

Phone **(850) 617-7700**

Address **400 S. Monroe St. - PL 10**

Email **isabelle.garbarino@fdacs.gov**

Street

Tallahassee

FL

32399

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

**Florida Department of Agriculture
& Consumer Services**

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

3/13/23

Meeting Date

Agriculture

Committee

Name Adam Basford

Address 516 N Adams St

Street

Tallahassee

City

FL

State

32301

Zip

The Florida Senate

APPEARANCE RECORD

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DUPLICATE

1164

Bill Number or Topic

Amendment Barcode (if applicable)

Phone 224-7173

Email abasford@aif.com

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Associated Industries of Florida

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

3/13/2023

The Florida Senate
APPEARANCE RECORD

SB 1164

Meeting Date

Agriculture

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Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name **Tripp Hunter**

Phone _____

Address _____ Email _____

Street

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Fruit & Vegetable Assn.

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Agriculture

BILL: SB 1166

INTRODUCER: Senator Collins

SUBJECT: Public Records/Investigators of the Department of Agriculture and Consumer Services

DATE: March 10, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Burse	Becker	AG	Favorable
2.			GO	
3.			RC	

I. Summary:

SB 1166 amends s. 119.071, F.S., to create a public records exemption for certain personnel file information for specific Florida Department of Agriculture and Consumer Services (department) staff.

This public records exemption would be repealed on October 2, 2028 unless reviewed and saved from repeal through reenactment by the Legislature.

This act shall take effect July 1, 2023.

II. Present Situation:

Access to Public Records - Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and the statutory provisions are adopted in the rules of each house of the

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, ch. 119, F.S., provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

Chapter 119, F.S., known as the Public Records Act, provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.⁵

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted the statutory definition of “public record” to include “material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”⁷

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.¹⁰ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2022-2024) and Rule 14.1, *Rules of the Florida House of Representatives*, (2022-2024).

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.01(1), F.S. Section 119.01(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁶ Section 119.01(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁸ Section 119.07(1)(a), F.S.

⁹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹⁰ FLA. CONST. art. I, s. 24(c).

¹¹ *Id.* See, e.g., *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

General exemptions from the public records requirements are contained in the Public Records Act.¹² Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹³

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” Custodians of records designated as “exempt” are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record.¹⁴ Custodians of records designated as “confidential and exempt” may not disclose the record except under circumstances specifically defined by the Legislature.¹⁵

Open Government Sunset Review Act

The Open Government Sunset Review Act¹⁶ (the act) prescribes a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁹

The act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.²⁰

An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;²¹
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²² or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

¹² See, e.g., s. 119.071(1)(a), F.S. (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹³ See, e.g., s. 213.053(2)(a), F.S. (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

¹⁴ See *Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991).

¹⁵ *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹⁶ Section 119.15, F.S.

¹⁷ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

¹⁸ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

In examining an exemption, the act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption. The act requires the Legislature to consider the following specific questions in such a review:²⁴

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁵ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.²⁶

Office of Agricultural Law Enforcement

The Office of Agricultural Law Enforcement (OALE) enforces laws governing businesses regulated by the department. OALE protects consumers from unfair and deceptive trade practices, protects Florida's agriculture industry from theft and other crimes, and safeguards the wholesomeness of food and other consumer products.²⁷

OALE operates 23 agricultural inspection stations on 19 highways going into and out of Florida. Officers conduct vehicle inspections 24 hours a day, 365 days a year to ensure the safety of Florida's food supply. Officers are on the lookout for unsafe or unwholesome food that could make people sick, and plant and animal pests and diseases that could harm the state's \$100 billion agriculture industry.²⁸

OALE investigates crimes involving agriculture and those occurring on property owned or operated by the department. They help maintain domestic security, participating in all seven regional Domestic Security Task Forces statewide. OALE partners with federal, state and local law enforcement agencies and help coordinate the Domestic Marijuana Eradication Task Force.²⁹

²⁴ Section 119.15(6)(a), F.S.

²⁵ See *generally* s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

²⁷ See <https://www.fdacs.gov/Divisions-Offices/Agricultural-Law-Enforcement>, (last visited March 2, 2023).

²⁸ *Id.*

²⁹ *Id.*

III. Effect of Proposed Changes:

Section 1 amends s. 119.071, F.S. to add a public records exemption for certain personnel file information for specific department staff. This section is set to be repealed on October 2, 2028 unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2 provides the legislative intent of the bill is to shield employees and their families from any potential harm that may come from the scrutiny of businesses or professional practices from the department. The bill also provides that the potential harm from identifying employees outweighs any public benefit from public disclosure.

Section 3 provides that this act shall take effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill creates an exemption, thus, the bill requires a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill creates an exemption, thus, the bill requires a two-thirds vote to be enacted.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The exemption in the bill does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 119.071 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Collins

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A bill to be entitled

An act relating to public records; amending s.

119.071, F.S.; providing an exemption from public records requirements for the personal identifying and location information of current or former inspectors or investigators of the Department of Agriculture and Consumer Services and the spouses and children of the current or former inspectors or investigators; providing for retroactive application; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

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

Section 1. Paragraph (d) of subsection (4) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(4) AGENCY PERSONNEL INFORMATION.—

(d)1. For purposes of this paragraph, the term:

a. "Home addresses" means the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address.

b. "Telephone numbers" includes home telephone numbers, personal cellular telephone numbers, personal pager telephone

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numbers, and telephone numbers associated with personal communications devices.

2.a. The home addresses, telephone numbers, dates of birth, and photographs of active or former sworn law enforcement personnel or of active or former civilian personnel employed by a law enforcement agency, including correctional and correctional probation officers, personnel of the Department of Children and Families whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

b. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Department of Financial Services whose duties include the investigation of fraud, theft, workers' compensation coverage requirements and compliance, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care

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facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

c. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Office of Financial Regulation's Bureau of Financial Investigations whose duties include the investigation of fraud, theft, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

d. The home addresses, telephone numbers, dates of birth, and photographs of current or former firefighters certified in compliance with s. 633.408; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

e. The home addresses, dates of birth, and telephone numbers of current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former justices and judges; and the names and locations of schools and day care facilities attended

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by the children of current or former justices and judges are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

f. The home addresses, telephone numbers, dates of birth, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

g. The home addresses, dates of birth, and telephone numbers of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; and the names and locations of schools and day care facilities attended by the children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers are

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exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

h. The home addresses, telephone numbers, dates of birth, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

i. The home addresses, telephone numbers, dates of birth, and photographs of current or former code enforcement officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

j. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former guardians ad litem, as defined in s. 39.820; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from s. 119.07(1) and

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s. 24(a), Art. I of the State Constitution.

k. The home addresses, telephone numbers, dates of birth, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, juvenile justice detention officers I and II, juvenile justice detention officer supervisors, juvenile justice residential officers, juvenile justice residential officer supervisors I and II, juvenile justice counselors, juvenile justice counselor supervisors, human services counselor administrators, senior human services counselor administrators, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

l. The home addresses, telephone numbers, dates of birth, and photographs of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; and the names and locations of schools and day care facilities attended by the children of current or former public defenders, assistant public defenders,

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175 criminal conflict and civil regional counsel, and assistant
 176 criminal conflict and civil regional counsel are exempt from s.
 177 119.07(1) and s. 24(a), Art. I of the State Constitution.
 178 m. The home addresses, telephone numbers, dates of birth,
 179 and photographs of current or former investigators or inspectors
 180 of the Department of Business and Professional Regulation; the
 181 names, home addresses, telephone numbers, dates of birth, and
 182 places of employment of the spouses and children of such current
 183 or former investigators and inspectors; and the names and
 184 locations of schools and day care facilities attended by the
 185 children of such current or former investigators and inspectors
 186 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 187 Constitution.
 188 n. The home addresses, telephone numbers, and dates of
 189 birth of county tax collectors; the names, home addresses,
 190 telephone numbers, dates of birth, and places of employment of
 191 the spouses and children of such tax collectors; and the names
 192 and locations of schools and day care facilities attended by the
 193 children of such tax collectors are exempt from s. 119.07(1) and
 194 s. 24(a), Art. I of the State Constitution.
 195 o. The home addresses, telephone numbers, dates of birth,
 196 and photographs of current or former personnel of the Department
 197 of Health whose duties include, or result in, the determination
 198 or adjudication of eligibility for social security disability
 199 benefits, the investigation or prosecution of complaints filed
 200 against health care practitioners, or the inspection of health
 201 care practitioners or health care facilities licensed by the
 202 Department of Health; the names, home addresses, telephone
 203 numbers, dates of birth, and places of employment of the spouses

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204 and children of such personnel; and the names and locations of
 205 schools and day care facilities attended by the children of such
 206 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of
 207 the State Constitution.
 208 p. The home addresses, telephone numbers, dates of birth,
 209 and photographs of current or former impaired practitioner
 210 consultants who are retained by an agency or current or former
 211 employees of an impaired practitioner consultant whose duties
 212 result in a determination of a person's skill and safety to
 213 practice a licensed profession; the names, home addresses,
 214 telephone numbers, dates of birth, and places of employment of
 215 the spouses and children of such consultants or their employees;
 216 and the names and locations of schools and day care facilities
 217 attended by the children of such consultants or employees are
 218 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 219 Constitution.
 220 q. The home addresses, telephone numbers, dates of birth,
 221 and photographs of current or former emergency medical
 222 technicians or paramedics certified under chapter 401; the
 223 names, home addresses, telephone numbers, dates of birth, and
 224 places of employment of the spouses and children of such
 225 emergency medical technicians or paramedics; and the names and
 226 locations of schools and day care facilities attended by the
 227 children of such emergency medical technicians or paramedics are
 228 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 229 Constitution.
 230 r. The home addresses, telephone numbers, dates of birth,
 231 and photographs of current or former personnel employed in an
 232 agency's office of inspector general or internal audit

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 233 department whose duties include auditing or investigating waste,
 234 fraud, abuse, theft, exploitation, or other activities that
 235 could lead to criminal prosecution or administrative discipline;
 236 the names, home addresses, telephone numbers, dates of birth,
 237 and places of employment of spouses and children of such
 238 personnel; and the names and locations of schools and day care
 239 facilities attended by the children of such personnel are exempt
 240 from s. 119.07(1) and s. 24(a), Art. I of the State
 241 Constitution.

s. The home addresses, telephone numbers, dates of birth,
 243 and photographs of current or former directors, managers,
 244 supervisors, nurses, and clinical employees of an addiction
 245 treatment facility; the home addresses, telephone numbers,
 246 photographs, dates of birth, and places of employment of the
 247 spouses and children of such personnel; and the names and
 248 locations of schools and day care facilities attended by the
 249 children of such personnel are exempt from s. 119.07(1) and s.
 250 24(a), Art. I of the State Constitution. For purposes of this
 251 sub-subparagraph, the term "addiction treatment facility" means
 252 a county government, or agency thereof, that is licensed
 253 pursuant to s. 397.401 and provides substance abuse prevention,
 254 intervention, or clinical treatment, including any licensed
 255 service component described in s. 397.311(26).

t. The home addresses, telephone numbers, dates of birth,
 257 and photographs of current or former directors, managers,
 258 supervisors, and clinical employees of a child advocacy center
 259 that meets the standards of s. 39.3035(2) and fulfills the
 260 screening requirement of s. 39.3035(3), and the members of a
 261 Child Protection Team as described in s. 39.303 whose duties

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 262 include supporting the investigation of child abuse or sexual
 263 abuse, child abandonment, child neglect, and child exploitation
 264 or to provide services as part of a multidisciplinary case
 265 review team; the names, home addresses, telephone numbers,
 266 photographs, dates of birth, and places of employment of the
 267 spouses and children of such personnel and members; and the
 268 names and locations of schools and day care facilities attended
 269 by the children of such personnel and members are exempt from s.
 270 119.07(1) and s. 24(a), Art. I of the State Constitution.

u. The home addresses, telephone numbers, places of
 272 employment, dates of birth, and photographs of current or former
 273 staff and domestic violence advocates, as defined in s.
 274 90.5036(1)(b), of domestic violence centers certified by the
 275 Department of Children and Families under chapter 39; the names,
 276 home addresses, telephone numbers, places of employment, dates
 277 of birth, and photographs of the spouses and children of such
 278 personnel; and the names and locations of schools and day care
 279 facilities attended by the children of such personnel are exempt
 280 from s. 119.07(1) and s. 24(a), Art. I of the State
 281 Constitution.

v. The home addresses, telephone numbers, dates of birth,
 283 and photographs of current or former inspectors or investigators
 284 of the Department of Agriculture and Consumer Services; the
 285 names, home addresses, telephone numbers, dates of birth, and
 286 places of employment of the spouses and children of current or
 287 former inspectors or investigators; and the names and locations
 288 of schools and day care facilities attended by the children of
 289 current or former inspectors or investigators are exempt from s.
 290 119.07(1) and s. 24(a), Art. I of the State Constitution.

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291 3. An agency that is the custodian of the information
 292 specified in subparagraph 2. and that is not the employer of the
 293 officer, employee, justice, judge, or other person specified in
 294 subparagraph 2. must maintain the exempt status of that
 295 information only if the officer, employee, justice, judge, other
 296 person, or employing agency of the designated employee submits a
 297 written and notarized request for maintenance of the exemption
 298 to the custodial agency. The request must state under oath the
 299 statutory basis for the individual's exemption request and
 300 confirm the individual's status as a party eligible for exempt
 301 status.

302 4.a. A county property appraiser, as defined in s.
 303 192.001(3), or a county tax collector, as defined in s.
 304 192.001(4), who receives a written and notarized request for
 305 maintenance of the exemption pursuant to subparagraph 3. must
 306 comply by removing the name of the individual with exempt status
 307 and the instrument number or Official Records book and page
 308 number identifying the property with the exempt status from all
 309 publicly available records maintained by the property appraiser
 310 or tax collector. For written requests received on or before
 311 July 1, 2021, a county property appraiser or county tax
 312 collector must comply with this sub-subparagraph by October 1,
 313 2021. A county property appraiser or county tax collector may
 314 not remove the street address, legal description, or other
 315 information identifying real property within the agency's
 316 records so long as a name or personal information otherwise
 317 exempt from inspection and copying pursuant to this section are
 318 not associated with the property or otherwise displayed in the
 319 public records of the agency.

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320 b. Any information restricted from public display,
 321 inspection, or copying under sub-subparagraph a. must be
 322 provided to the individual whose information was removed.

323 5. An officer, an employee, a justice, a judge, or other
 324 person specified in subparagraph 2. may submit a written request
 325 for the release of his or her exempt information to the
 326 custodial agency. The written request must be notarized and must
 327 specify the information to be released and the party authorized
 328 to receive the information. Upon receipt of the written request,
 329 the custodial agency must release the specified information to
 330 the party authorized to receive such information.

331 6. The exemptions in this paragraph apply to information
 332 held by an agency before, on, or after the effective date of the
 333 exemption.

334 7. Information made exempt under this paragraph may be
 335 disclosed pursuant to s. 28.2221 to a title insurer authorized
 336 pursuant to s. 624.401 and its affiliates as defined in s.
 337 624.10; a title insurance agent or title insurance agency as
 338 defined in s. 626.841(1) or (2), respectively; or an attorney
 339 duly admitted to practice law in this state and in good standing
 340 with The Florida Bar.

341 8. The exempt status of a home address contained in the
 342 Official Records is maintained only during the period when a
 343 protected party resides at the dwelling location. Upon
 344 conveyance of real property after October 1, 2021, and when such
 345 real property no longer constitutes a protected party's home
 346 address as defined in sub-subparagraph 1.a., the protected party
 347 must submit a written request to release the removed information
 348 to the county recorder. The written request to release the

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 removed information must be notarized, must confirm that a
 protected party's request for release is pursuant to a
 conveyance of his or her dwelling location, and must specify the
 Official Records book and page, instrument number, or clerk's
 file number for each document containing the information to be
 released.

9. Upon the death of a protected party as verified by a
 certified copy of a death certificate or court order, any party
 can request the county recorder to release a protected
 decedent's removed information unless there is a related request
 on file with the county recorder for continued removal of the
 decedent's information or unless such removal is otherwise
 prohibited by statute or by court order. The written request to
 release the removed information upon the death of a protected
 party must attach the certified copy of a death certificate or
 court order and must be notarized, must confirm the request for
 release is due to the death of a protected party, and must
 specify the Official Records book and page number, instrument
 number, or clerk's file number for each document containing the
 information to be released. A fee may not be charged for the
 release of any document pursuant to such request.

10. This paragraph is subject to the Open Government Sunset
 Review Act in accordance with s. 119.15 and shall stand repealed
 on October 2, 2024, unless reviewed and saved from repeal
 through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public
 necessity that the home addresses, telephone numbers, dates of
 birth, and photographs of current or former inspectors or
 investigators of the Department of Agriculture and Consumer

14-01291-23 20231166__
 Services; the names, home addresses, telephone numbers, dates of
 birth, and places of employment of the spouses and children of
 current or former inspectors or investigators; and the names and
 locations of schools and day care facilities attended by the
 children of current or former inspectors or investigators be
 made exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
 Article I of the State Constitution. The Legislature finds that
 the release of such personal identifying and location
 information might place the department's current or former
 inspectors or investigators and their family members in danger
 of physical and emotional harm from disgruntled individuals
 whose businesses or professional practices have come under the
 scrutiny of the department. In addition, such personnel may be
 subject to threats or acts of revenge because of the duties they
 perform. The Legislature further finds that the harm that may
 result from the release of such personal identifying and
 location information outweighs any public benefit that may be
 derived from the disclosure of the information.

Section 3. This act shall take effect July 1, 2023.

3/13/23

Meeting Date

Agriculture

Committee

The Florida Senate

APPEARANCE RECORD

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1166

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Isabelle Garbarino**

Phone **(850) 617-7700**

Address **400 S. Monroe St. - PL 10**

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FL

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State

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Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

**Florida Department of Agriculture
& Consumer Services**

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Agriculture

BILL: CS/SB 1172

INTRODUCER: Senator Calatayud

SUBJECT: Hunger-Free Campus Pilot Program

DATE: March 14, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Becker	Becker	AG	Fav/CS
2.			AEG	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 1172, the “Hunger-Free Campus Act,” creates the Hunger-Free Campus Pilot Program within the Department of Agriculture and Consumer Services (department). The purpose of the program is to support efforts to fight hunger on the campuses of postsecondary educational institutions and the program is established for one year beginning July 1, 2023.

The bill directs the Commissioner of Agriculture (commissioner) to identify the top three institutions that have the highest percentage of Pell Grant-eligible students among all state universities and Florida College System institutions and those three shall participate in the program.

The commissioner shall develop a survey instrument requiring all participating universities or Florida College System institutions to meet certain requirements, including, but not limited to, establishing a hunger task force, designating a staff member responsible for assisting students in enrollment in the Supplemental Nutrition Assistance Program (SNAP), providing options for students to use SNAP benefits on campus, providing at least one food pantry on campus, and conducting a student study on hunger.

The bill requires each participating state university or Florida College System institution to submit a report to the department which describes how it implemented the program. By January 1, 2025, the commissioner shall report on the program to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report shall include, but is not

limited to, the impact of the program on establishing hunger-free campuses at participating state universities or Florida College System institutions; the impact of the program on reducing the number of students at such universities and institutions who are experiencing food insecurity; and recommendations regarding future funding and implementation of the program on a long-term basis.

The bill directs the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a study to evaluate food insecurity on the campuses of state universities and Florida College System institutions. The study must include recommendations for any changes to general law, Board of Governors' rules and regulations, or State Board of Education rules needed to address food insecurity on the campuses of state universities and Florida College System institutions, by December 1, 2023.

The bill takes effect July 1, 2023.

II. Present Situation:

Approximately one-third of college students in the United States are food insecure,¹ and more than half of the students enrolled in the Florida College System are low income and first-generation.² Food insecurity is associated with poor mental and physical health, as well as lower rates of academic success among students. Prior to the coronavirus crisis, the American Association of Collegiate Registrars and Admissions Officers identified food insecurity as a top barrier to student non-completion, and as a result of the pandemic 5.8 out of every 10 students have experienced basic needs insecurity.³

While forms of assistance such as local food pantries and the SNAP exist, many students do not take advantage of them due to the stigma associated, or because they do not qualify.

Supplemental Nutrition Assistance Program (SNAP)

The Food and Nutrition Service (FNS), under the U.S. Department of Agriculture (USDA), administers the Supplemental Nutrition Assistance Program (SNAP).⁴ SNAP, formerly the Food

¹ DeBate et al., *Food Insecurity, Well-being, and Academic Success among College Students: Implications for Post COVID-19 Pandemic Programming*, Ecology of Food and Nutrition, October 7, 2021, available at <https://www.usf.edu/arts-sciences/centers/cafsch/documents/food-insecurity-wellbeing-and-academic-success.pdf> (last visited March 10, 2023).

² Florida Department of Education, *Affordability in the Florida College System* (December 2018), available at <https://www.fldoe.org/core/fileparse.php/7724/urlt/FCS18-Affordability.pdf> (last visited March 10, 2023).

³ Florida College Access Network, *Nearly 3 in 5 College Students Struggle with Food, Housing Insecurity Due to Covid-19* (July 1, 2020), available at <https://floridacollegeaccess.org/research-and-data/nearly-3-in-5-college-students-struggle-with-food-housing-insecurity-due-to-covid-19/> (last visited March 10, 2023).

⁴ 1 The Food Stamp Program (FSP) originated in 1939 as a pilot program for certain individuals to buy stamps equal to their normal food expenditures: for every \$1 of orange stamps purchased, people received 50 cents worth of blue stamps, which could be used to buy surplus food. The FSP expanded nationwide in 1974. Under the federal welfare reform legislation of 1996, Congress enacted major changes to the FSP, including limiting eligibility for certain adults who did not meet work requirements. The Food and Nutrition Act of 2008 renamed the FSP the Supplemental Nutrition Assistance Program (SNAP) and implemented priorities to strengthen program integrity; simplify program administration; maintain states' flexibility in how they administer their programs; and improve access to SNAP. See A Short History of SNAP, UNITED STATES

Stamp Program, is the nation's largest domestic food and nutrition assistance program for low-income Americans.⁵ For low-income households, increased spending on food is consistently and positively associated with diet quality and is associated with higher use and intake of both fruits and vegetables.⁶

In fiscal year 2020, SNAP provided assistance to approximately 39.9 million people living in 20.5 million households across the US, in an average month.⁷ SNAP benefits support individual households by reducing the effects of poverty and increasing food security while supporting economic activity across communities as SNAP benefits directly benefit farmers, retailers, food processors and distributors, and their employees.⁸

To be eligible for SNAP, households must have a gross monthly income at or below 130 percent of the poverty line, have a net income at or below the poverty line, and have assets below certain limits based on whether or not the household has a member aged 60 or older who has a disability.⁹ As of January 2023, 3,220,757 individuals, including 1,262,174 children and 1,017,860 elderly or disabled individuals, were receiving SNAP benefits in Florida.¹⁰

SNAP Eligible Foods

The Food and Nutrition Act of 2008 defines eligible food under SNAP as any food or food product intended for human consumption except alcoholic beverages, tobacco, hot foods, and hot food products prepared for immediate consumption, with some exceptions.¹¹ Nonfood items such as pet foods, soaps, paper products, medicines and vitamins, household supplies, grooming items, and cosmetics are ineligible for purchase with SNAP benefits.¹² Eligible foods include junk foods such as soft drinks and candy.¹³

DEPARTMENT OF AGRICULTURE, FOOD AND NUTRITION SERVICE, available at <https://www.fns.usda.gov/snap/short-history-snap> (last visited March 10, 2023).

⁵ US Department of Agriculture, Economic Research Service, Supplemental Nutrition Assistance Program (SNAP) Overview. Available at <https://www.ers.usda.gov/topics/food-nutrition-assistance/supplemental-nutrition-assistance-program-snap/> (last visited March 10, 2023).

⁶ Food Expenditures and Diet Quality Among Low-Income Households and Individuals, UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE, July 2010, available at https://www.fns.usda.gov/sites/default/files/FoodExpendDietQuality_Summary.pdf (last visited March 10, 2023).

⁷ US Department of Agriculture, Food and Nutrition Service, Characteristics of SNAP Households: FY 2020 and Early Months of the COVID-19 Pandemic: Characteristics of SNAP Households, available at <https://www.fns.usda.gov/snap/characteristics-snap-households-fy-2020-and-early-months-covid-19-pandemic-characteristics> (last visited March 10, 2023).

⁸ US Department of Agriculture, Economic Research Service, Supplemental Nutrition Assistance Program (SNAP) Economic Linkages. Available at <https://www.ers.usda.gov/topics/food-nutrition-assistance/supplemental-nutrition-assistance-program-snap/economic-linkages/> (last visited March 10, 2023).

⁹ Canter on Budget Policy and Priorities, *A Quick Guide to SNAP Eligibility and Benefits*, available at https://www.cbpp.org/research/food-assistance/a-quick-guide-to-snap-eligibility-and-benefits#_ftn5 (last visited March 10, 2023).

¹⁰ Email from Chad Corcoran, Deputy Director of Legislative Affairs, Department of Children and Families, Re: SNAP Participants (March 2, 2023). On file with the Florida House Children, Families, and Seniors Subcommittee.

¹¹ 7 USC § 2012(k); see also 7 CFR § 271.2.

¹² Id.

¹³ For an explanation of the inclusion of “junk food” and luxury items as eligible foods, see UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE, Supplemental Nutrition Assistance Program (SNAP) Eligible Food Items, <https://www.fns.usda.gov/snap/eligible-food-items> (last visited March 10, 2023).

When considering the eligibility of vitamins and supplements, power bars, energy drinks and other branded products, the primary determinant is the type of product label chosen by the manufacturer to conform to Food and Drug Administration (FDA) guidelines:

- Items that carry a nutrition facts label are eligible foods.
- Items that carry a supplement facts label are classified by the FDA as supplements and are therefore not eligible.¹⁴

Campus Food Pantries

Nearly one third (29%) of college students have missed a meal at least once a week since the beginning of the COVID-19 pandemic, and more than half of all students have used off-campus food banks.¹⁵

Campus food pantries are often run by campus student support services, student government, or the administrative department, and are for enrolled students facing food insecurity. Pantries may partner with organizations in the community to keep the shelves and freezers stocked and raise donations. Mobile pantries may also directly serve students in high need of hunger-relief.¹⁶

Hunger-Free Campuses

The first Hunger-Free Campus bill was originally introduced in California in 2017 by then Assemblywoman Monique Limón. The Hunger-Free Campus policy provided funding to public colleges addressing student hunger on campus. Since its passage in California,¹⁷ additional states have formally passed Hunger-Free Campus legislation, including New Jersey,¹⁸ Maryland,¹⁹ Minnesota,²⁰ and Massachusetts.²¹

III. Effect of Proposed Changes:

SB 1172, the “Hunger-Free Campus Act,” creates the Hunger-Free Campus Pilot Program within the Department of Agriculture and Consumer Services (department). The purpose of the program is to support efforts to fight hunger on the campuses of postsecondary educational institutions and the program is established for one year beginning July 1, 2023.

¹⁴ Determining Product Eligibility for Purchase with SNAP Benefits, UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE, Jan. 26, 2017, available at <https://www.fns.usda.gov/sites/default/files/eligibility.pdf> (last visited March 10, 2023).

¹⁵ Swipe Out Hunger, *Swipe Out Hunger Acquires the College and University Food Bank Alliance* (Oct. 21, 2021), <https://www.swipehunger.org/cufba/>. (last visited March 10, 2023).

¹⁶ Feeding Florida, *Mobile Pantries*, <https://www.feedingflorida.org/food-access/mobile-pantries>. Feeding Florida consists of 12-member food banks within its mobile pantry program. (last visited March 10, 2023).

¹⁷ Cal. Educ. Code § 66027.8 (2017)

¹⁸ N.J. Stat. Ann. § 18A:62-60 (2019)

¹⁹ Md. Code Ann., Educ. § 11-1703 (2021)

²⁰ Minn. Stat. Ann. § 135A.137 (2021)

²¹ Mass. Gen. Laws ch. 15A, § 2 (2021)

The bill directs the Commissioner of Agriculture (commissioner) to identify the top three institutions that have the highest percentage of Pell Grant-eligible students among all state universities and Florida College System institutions and those three shall participate in the program.

The commissioner shall develop a survey instrument requiring all participating universities or Florida College System institutions to:

- Establish a hunger task force, which must include representatives from the student body and meet at least three times during the life of the pilot program. The task force shall set at least two goals to address hunger on campus, each accompanied by an action plan.
- Designate a staff member responsible for assisting students with enrollment in the Supplemental Nutrition Assistance Program (SNAP).
- Provide options that enable students to use SNAP benefits on campus or provide students with information on authorized SNAP retailers in the area surrounding the campus where they may use SNAP electronic benefit transfer cards.
- Host an activity or event during Hunger and Homelessness Awareness Week to promote awareness of hunger on the nation's campuses.
- Provide at least one physical food pantry on campus or enable students to receive food at no cost through a stigma-free process. The campus may partner with a local food bank or food paragraph to comply with this requirement.
- Develop a student meal credit donation program or designate funds that might be raised through such a program for free food vouchers.
- Conduct a student survey on hunger, using a survey instrument developed by the commissioner, and submit the results of the survey and a best practices campus profile to the department by a date prescribed by the department for inclusion in a comparative profile of each campus designated as a hunger-free campus.

The bill requires each participating state university or Florida College System institution to submit a report to the department which describes how it implemented the program. By January 1, 2025, the commissioner shall report on the program to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report shall include, but is not limited to, the impact of the program on establishing hunger-free campuses at participating state universities or Florida College System institutions; the impact of the program on reducing the number of students at such universities and institutions who are experiencing food insecurity; and recommendations regarding future funding and implementation of the program on a long-term basis.

The department is granted rulemaking authority to implement the program.

The bill directs OPPAGA to conduct a study to evaluate food insecurity on the campuses of state universities and Florida College System institutions. The study must include recommendations for any changes to general law, Board of Governors' rules and regulations, or State Board of Education rules needed to address food insecurity on the campuses of state universities and Florida College System institutions.

OPPAGA must consult with the Board of Governors of the State University System, the Department of Education, and any other relevant stakeholders to conduct the study. OPPAGA shall submit a report on its findings to the President of the Senate and the Speaker of the House of Representatives by December 1, 2023.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has no impact on state revenues or expenditures. The pilot program is contingent upon legislative appropriation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an unnumbered section of Florida Statutes.

IX. Additional Information:

- A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Agriculture on March 13, 2023:

The committee substitute revises the entities that shall participate in the pilot program from the top three among all state universities and Florida College System institutions that have the highest number of Pell Grant-eligible students to the top three entities that have the highest percentage of Pell Grant-eligible students.

- B. Amendments:

None.



281446

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2023	.	
	.	
	.	
	.	

The Committee on Agriculture (Rouson) recommended the following:

Senate Amendment (with title amendment)

Delete line 45
and insert:
that have the highest percentage of Pell Grant-eligible
students,

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 10
and insert:



281446

12 institutions with the highest percentage of Pell
13 Grant-

By Senator Calatayud

38-00943A-23

20231172__

1 A bill to be entitled
 2 An act relating to the Hunger-Free Campus Pilot
 3 Program; providing a short title; establishing the
 4 pilot program within the Department of Agriculture and
 5 Consumer Services for a specified period; providing
 6 the purpose of the pilot program; defining the terms
 7 "commissioner" and "department"; requiring the
 8 Commissioner of Agriculture to identify the three
 9 state universities or Florida College System
 10 institutions with the highest number of Pell Grant-
 11 eligible students for participation in the pilot
 12 program; requiring the commissioner to develop a
 13 specified survey instrument; providing requirements
 14 for participating universities and institutions;
 15 requiring participating universities and institutions
 16 to submit a report to the department; requiring the
 17 commissioner to submit a report to the Governor and
 18 the Legislature by a specified date; specifying
 19 requirements for the reports; authorizing the
 20 department to adopt rules; requiring the Office of
 21 Program Policy Analysis and Government Accountability
 22 to conduct a study to evaluate food insecurity on the
 23 campuses of state universities and Florida College
 24 System institutions; providing requirements for the
 25 office and the study; requiring the office to submit a
 26 report to the Legislature by a specified date;
 27 providing an effective date.
 28
 29 Be It Enacted by the Legislature of the State of Florida:

38-00943A-23

20231172__

30
 31 Section 1. This act may be cited as the "Hunger-Free Campus
 32 Act."
 33 Section 2. (1) Subject to legislative appropriation, the
 34 Hunger-Free Campus Pilot Program is established within the
 35 Department of Agriculture and Consumer Services to support
 36 efforts to fight hunger on the campuses of public postsecondary
 37 educational institutions. The program is established for a
 38 period of 1 year, beginning July 1, 2023.
 39 (2) For purposes of this section, the term:
 40 (a) "Commissioner" means the Commissioner of Agriculture.
 41 (b) "Department" means the Department of Agriculture and
 42 Consumer Services.
 43 (3) (a) The commissioner shall identify from among all state
 44 universities and Florida College System institutions the three
 45 that have the highest number of Pell Grant-eligible students,
 46 which universities or institutions shall participate in the
 47 program.
 48 (b) The commissioner shall also develop the survey
 49 instrument described in subsection (4).
 50 (4) A participating state university or Florida College
 51 System institution shall:
 52 (a) Establish a hunger task force, which must include
 53 representatives from the student body and meet at least three
 54 times during the life of the pilot program. The task force shall
 55 set at least two goals to address hunger on campus, each
 56 accompanied by an action plan.
 57 (b) Designate a staff member responsible for assisting
 58 students with enrollment in the Supplemental Nutrition

38-00943A-23

20231172

Assistance Program (SNAP) as defined in s. 414.456(1), Florida Statutes.

(c) Provide options that enable students to use SNAP benefits on campus or provide students with information on authorized SNAP retailers in the area surrounding the campus where they may use SNAP electronic benefit transfer cards.

(d) Host an activity or event during Hunger and Homelessness Awareness Week to promote awareness of hunger on the nation's campuses.

(e) Provide at least one physical food pantry on campus or enable students to receive food at no cost through a stigma-free process. The campus may partner with a local food bank or food pantry to comply with this paragraph.

(f) Develop a student meal credit donation program or designate funds that might be raised through such a program for free food vouchers.

(g) Conduct a student survey on hunger, using a survey instrument developed by the commissioner, and submit the results of the survey and a best practices campus profile to the department by a date prescribed by the department for inclusion in a comparative profile of each campus designated as a hunger-free campus.

(5) (a) Each participating state university or Florida College System institution shall submit a report to the department, in a manner prescribed by the department, which describes how it implemented the program and the program results.

(b) The commissioner shall submit a report on the program to the Governor, the President of the Senate, and the Speaker of

38-00943A-23

20231172

the House of Representatives by January 1, 2025. The report must include, but need not be limited to, the impact of the program on establishing hunger-free campuses at participating state universities or Florida College System institutions; the impact of the program on reducing the number of students at such universities and institutions who are experiencing food insecurity; and recommendations regarding future funding and implementation of the program on a long-term basis.

(6) The department may adopt rules to implement the program.

Section 3. (1) The Office of Program Policy Analysis and Government Accountability (OPPAGA) shall conduct a study to evaluate food insecurity on the campuses of state universities and Florida College System institutions.

(2) The study must include recommendations for any changes to general law, Board of Governors' rules and regulations, or State Board of Education rules needed to address food insecurity on the campuses of state universities and Florida College System institutions.

(3) In conducting the study, OPPAGA shall consult with the Board of Governors of the State University System, the board of trustees of the Florida College System, the Department of Education, and any other relevant stakeholders.

(4) OPPAGA shall submit a report on its findings to the President of the Senate and the Speaker of the House of Representatives by December 1, 2023.

Section 4. This act shall take effect July 1, 2023.



SENATOR Alexis M. Calatayud
38th District

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Community Affairs, Chair
Appropriations Committee on Education
Appropriations Committee of Health and Human
Services
Education Pre-K 12
Fiscal Policy
Health Policy
Military and Veterans Affairs, Space and Domestic
Security
Select Committee on Resiliency

March 8th, 2023

Honorable Senator Jay Collins
Chair
Committee on Agriculture

Honorable Chair Collins,

I respectfully request SB 1172 Hunger-Free Campus Pilot Program be placed on the next committee agenda.

This bill establishes the pilot program within the Department of Agriculture and Consumer Services for a specified period; requiring the Commissioner of Agriculture to identify the three state universities or Florida College System institutions with the highest number of Pell Grant-eligible students for participation in the pilot program; requiring the Office of Program Policy Analysis and Government Accountability to conduct a study to evaluate food insecurity on the campuses of state universities and Florida College System institutions.

Sincerely,

Alexis M. Calatayud

Senator Alexis M. Calatayud
Florida Senate, District 39

CC: Katherine Becker, Staff Director
Danna Ivey, Committee Administrative Assistant

REPLY TO:

- ☐ 11011 SW 101st St, STE 5101, Miami Florida 33176 (305) 596-3002
- ☐ 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5038

Senate's Website: www.flsenate.gov

Kathleen Passidomo
President of the Senate

Dennis Baxley
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

3-13-23

Meeting Date

Agriculture

Committee

SB 1172

Bill Number or Topic

Amendment Barcode (if applicable)

Name

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32304

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Zip

Speaking:

☒

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

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This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Agriculture

BILL: SB 1268

INTRODUCER: Senator Rouson

SUBJECT: Urban Agriculture Pilot Projects

DATE: March 10, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Becker	Becker	AG	Favorable
2.			CA	
3.			RC	

I. Summary:

SB 1268 revises the term “urban agriculture” to include new commercial uses on certain lands.

The bill takes effect July 1, 2023.

II. Present Situation:

Urban Agriculture

Over the past decade, food policy in the United States has responded to ongoing shifts in consumer preferences and producer trends that favor local and regional food systems while also supporting traditional farm enterprises.¹ This support for local and regional farming has helped to increase agricultural production in urban areas within and surrounding major U.S. cities.

Urban farming operations represent a diverse range of systems and practices. They encompass large-scale innovative systems and capital-intensive operations, vertical and rooftop farms, hydroponic greenhouses (e.g., soilless systems), and aquaponics facilities (e.g., growing fish and plants together in an integrated system).² Urban farming also includes a variety of operations such as vacant city lots, city parks, churchyards, schoolyards, backyards, and community gardens. Urban farming and gardening is often presented as a potential solution for improving health outcomes, increasing self-reliance, strengthening community, and achieving social goals.

In 2021 the Legislature authorized the Florida Department of Agriculture and Consumer Services (department) to approve five urban agricultural pilot project programs in municipalities throughout

¹ Congressional Research Service, The Library of Congress, *2018 Farm Bill Primer: Support for Urban Agriculture* (2019), available at <https://fas.org/sgp/crs/misc/IF11210.pdf> (last visited March 10, 2023).

² *Id.*

the state. There are requirements by which the department may approve such projects, eligibility and application requirements, and approved project length periods. Municipalities must submit a report to the department outlining outcome and impact of their pilot projects by a specified date. The department is then required to submit a report on the outcomes and impacts of the pilot projects to the President of the Senate and the Speaker of the House of Representatives.³

Types of Urban Agriculture

The many forms of urban agriculture can be categorized as either commercial or community-based.⁴ Commercial urban farms typically frame their business model on creating economically viable businesses that provide employment, food, and education opportunities to serve local needs.⁵

The primary objective of community-based urban gardens is to create spaces for local residents to engage in individual and neighborhood development and empowerment while growing, sharing, or selling fresh fruits and vegetables with each other.⁶ Profitability is not necessarily the goal of community-based urban agriculture;⁷ instead, these efforts seek dedicated outside funding to realize urban agriculture's promises of increased healthy food access, food justice, education, job training, ecological literacy, and community empowerment and development.⁸

“Right to Farm” Laws; Generally

In the 1970s, states began to identify the potential conflicts between farmers and developers as urban sprawl crept into rural, agricultural areas. One of the initial concerns was that the relocation of city dwellers into agricultural areas would result in a rash of very expensive nuisance lawsuits once the new neighbors were confronted with the sensory nature of farm life, complete with an inescapable array of odors, loud noises, dust, and other side-effects.⁹

In an effort to protect farms and agricultural operations from the encroaching sprawl, states passed anti-nuisance laws that are referred to as “Right to Farm” laws. These laws, enacted in all 50 states, protect agricultural production against some nuisance lawsuits. The laws do not grant absolute immunity but generally provide protections for defendants based upon a “coming to the nuisance” defense theory. These laws provide a liability shield for pre-existing agricultural operations when

³ Section 604.73, F.S.

⁴ Hodgson, K., Caton Campbell, M., & Bailkey, M, *Urban agriculture: Growing healthy, sustainable places*, (2011) Chicago, IL: American Planning Association Planning Advisory Service.

⁵ Rangarajan, A., & Riordan, M., *The Promise of Urban Agriculture: National Study of Commercial Farming in Urban Areas* (2019), United States Department of Agriculture/Agricultural Marketing Service and Cornell University Small Farms Program.

⁶ *Id.*

⁷ Hodgson, K., Caton Campbell, M., & Bailkey, M, *Urban agriculture: Growing healthy, sustainable places*, (2011) Chicago, IL: American Planning Association Planning Advisory Service.

⁸ Vitiello, D. and Wolf-Powers, L, *Growing food to grow cities: The potential of agriculture for economic and community development in the urban United States*, *Community Development Journal*, (2014), p. 508-523.

⁹ Alexia B. Borden and Thomas R. Head, III, *The “Right To Farm” In The Southeast – Does it Go Too Far?* (2007).

changes are made to the use of nearby parcels, such that the plaintiffs are described as “coming to the nuisance.”¹⁰ The Florida Right to Farm Act was enacted in 1979.¹¹

Nuisance

A nuisance is described as an activity, condition, or situation created by someone that significantly interferes with another person’s use or enjoyment of their property. A private nuisance affects a person’s private right that is not common to the public while a public nuisance is an interference that affects the general public, for example, a condition that is dangerous to health or community standards.¹²

The Florida Right to Farm Act

The Florida Right to Farm Act protects farm operations from nuisance lawsuits if the operations comply with generally accepted agricultural and management practices.¹³

The Florida Right to Farm Act states that a farm operation cannot be classified as a public or private nuisance if the farm:

- Has been in operation for 1 year or more since its established date of operation;
- Was not a nuisance when it was established; and
- Conforms to generally accepted agricultural and management practices.¹⁴

However, the following four unsanitary conditions constitute evidence of a nuisance:

- The presence of untreated or improperly treated human waste, garbage, offal, dead animals, dangerous waste materials, or gases which are harmful to human or animal life;
- The presence of improperly built or improperly maintained septic tanks, water closets, or privies;
- The keeping of diseased animals which are dangerous to human health, unless the animals are kept in accordance with a current state or federal disease control program; or
- The presence of unsanitary places where animals are slaughtered, which may give rise to diseases which are harmful to human or animal life.¹⁵

Additionally, a farm operation cannot be classified as a public or private nuisance due to a change:

- In ownership;
- In the type of farm product that is produced;
- In conditions in or around the locality of the farm; or

¹⁰ *Id.*

¹¹ Chapter 79-61, ss. 1-2, Laws of Fla.

¹² Black’s Law Dictionary (11th ed. 2019).

¹³ Section 823.14, F.S.

¹⁴ Section 823.14(4)(a), F.S.

¹⁵ *Id.*

- Made in compliance with Best Management Practices adopted by local, state, or federal agencies.¹⁶

The Florida Right to Farm Act, however, may not be construed to permit an existing farm operation to increase to a more excessive farm operation with regard to noise, odor, dust, or fumes where the existing operation is adjacent to an established homestead or business.^{17,18}

The Florida Building Code

Part IV of ch. 553, F.S., is known as the “Florida Building Codes Act” (Act). The purpose and intent of the Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.¹⁹

The Florida Building Commission (Commission), housed within the Department of Business and Professional Regulation, implements the Building Code. The Commission reviews several International Codes published by the International Code Council, the National Electric Code, and other nationally adopted model codes to determine if the Building Code needs to be updated and adopts an updated Building Code every 3 years.

III. Effect of Proposed Changes:

SB 1268 amends s. 604.73(3)(b), F.S., to revise the term “urban agriculture” to include new commercial uses on certain lands.

The bill also reenacts s. 604.40(2), F.S., and s. 604.50(2)(e), F.S., to conform to changes made by the bill.

The bill provides that this act shall take effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹⁶ Section 823.14(4)(b), F.S.

¹⁷ Section 823.14(5), F.S.

¹⁸ In an effort to eliminate duplication of regulatory authority over farm operations, local governments may not adopt an ordinance or similar policy to prohibit or limit an activity of a bona fide farm operation on land that is classified as agricultural land in accordance with statute, where the activity is regulated through implemented best management practices or certain interim measures. The full text of this prohibition is contained in s. 823.14(6), F.S.

¹⁹ See s. 553.72(1), F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill reenacts sections 604.40 and 604.50 of the Florida Statutes.

This bill substantially amends section 604.73 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Rouson

16-00648A-23

20231268__

A bill to be entitled

An act relating to urban agriculture pilot projects; amending s. 604.73, F.S.; redefining the term "urban agriculture" to include new commercial agricultural uses; reenacting ss. 604.40(2) and 604.50(2)(e), F.S., relating to farm equipment used in urban agriculture and nonresidential farm buildings, farm fences, and farm signs, respectively, to incorporate the amendment made to s. 604.73, F.S., in references thereto; providing an effective date.

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

Section 1. Paragraph (b) of subsection (3) of section 604.73, Florida Statutes, is amended to read:

604.73 Urban agriculture pilot projects; local regulation of urban agriculture.—

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

(b) "Urban agriculture" means any new or existing noncommercial or new commercial agricultural uses on land that is:

1. Within a dense urban land area, as described in s. 380.0651(3)(a);
2. Not classified as agricultural pursuant to s. 193.461;
3. Not zoned as agricultural as its principal use; and
4. Designated by a municipality for inclusion in an urban agricultural pilot project that has been approved by the department.

16-00648A-23

20231268__

The term does not include vegetable gardens, as defined in s. 604.71(4), for personal consumption on residential properties.

Section 2. For the purpose of incorporating the amendment made by this act to section 604.73, Florida Statutes, in a reference thereto, subsection (2) of section 604.40, Florida Statutes, is reenacted to read:

604.40 Farm equipment.—

(2) This section does not apply to farm equipment that is used in urban agriculture, as defined in s. 604.73(3).

Section 3. For the purpose of incorporating the amendment made by this act to section 604.73, Florida Statutes, in a reference thereto, paragraph (e) of subsection (2) of section 604.50, Florida Statutes, is reenacted to read:

604.50 Nonresidential farm buildings; farm fences; farm signs.—

(2) As used in this section, the term:

(e) "Urban agriculture" has the same meaning as in s. 604.73(3).

Section 4. This act shall take effect July 1, 2023.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations, *Vice Chair*
Ethics and Elections, *Vice Chair*
Agriculture
Appropriations Committee on Criminal
and Civil Justice
Appropriations Committee on Health and
Human Services
Children, Families, and Elder Affairs
Governmental Oversight and Accountability
Rules

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR DARRYL ERVIN ROUSON

16th District

March 6, 2023

Senator Jay Collins
Chairman, Committee on Agriculture
335 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Collins,

I write today respectfully requesting that SB 1268, **Urban Agriculture Pilot Projects**, be added to the agenda of a forthcoming meeting of the Committee on Agriculture for consideration. I look forward to the opportunity to present SB 1268 to the committee. I am available for any questions you may have about this legislation. Thank you in advance for the committee's time and consideration.

Sincerely –

A handwritten signature in green ink that reads "Darryl E. Rouson".

Senator Darryl E. Rouson
Florida Senate District 16

REPLY TO:

- ☐ 535 Central Avenue, Suite 302, St. Petersburg, Florida 33701 (727) 822-6828
- ☐ 212 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore



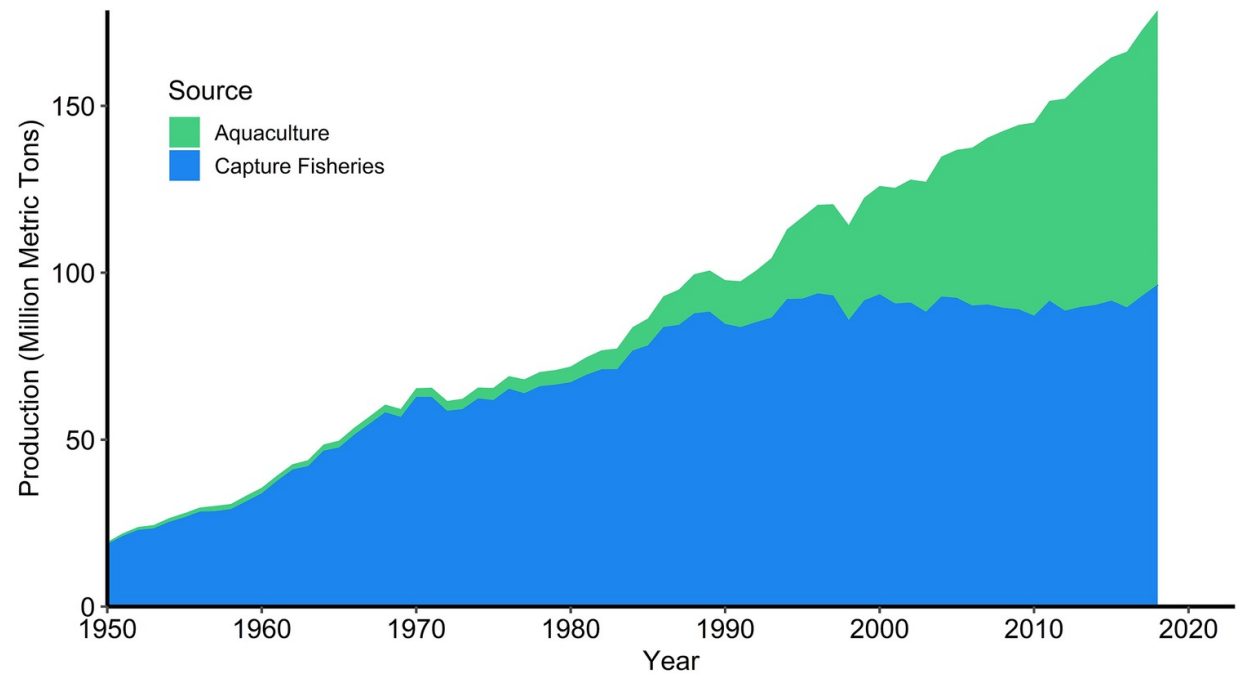
Senate Agriculture Committee Presentation

Tom Frazer - March 13, 2023
tfrazer@usf.edu

Marine Aquaculture

- Why is marine aquaculture important?
- What can marine aquaculture do for the economy?
- What does marine aquaculture look like in the future?

Why is marine aquaculture important?



source: FAO 2020

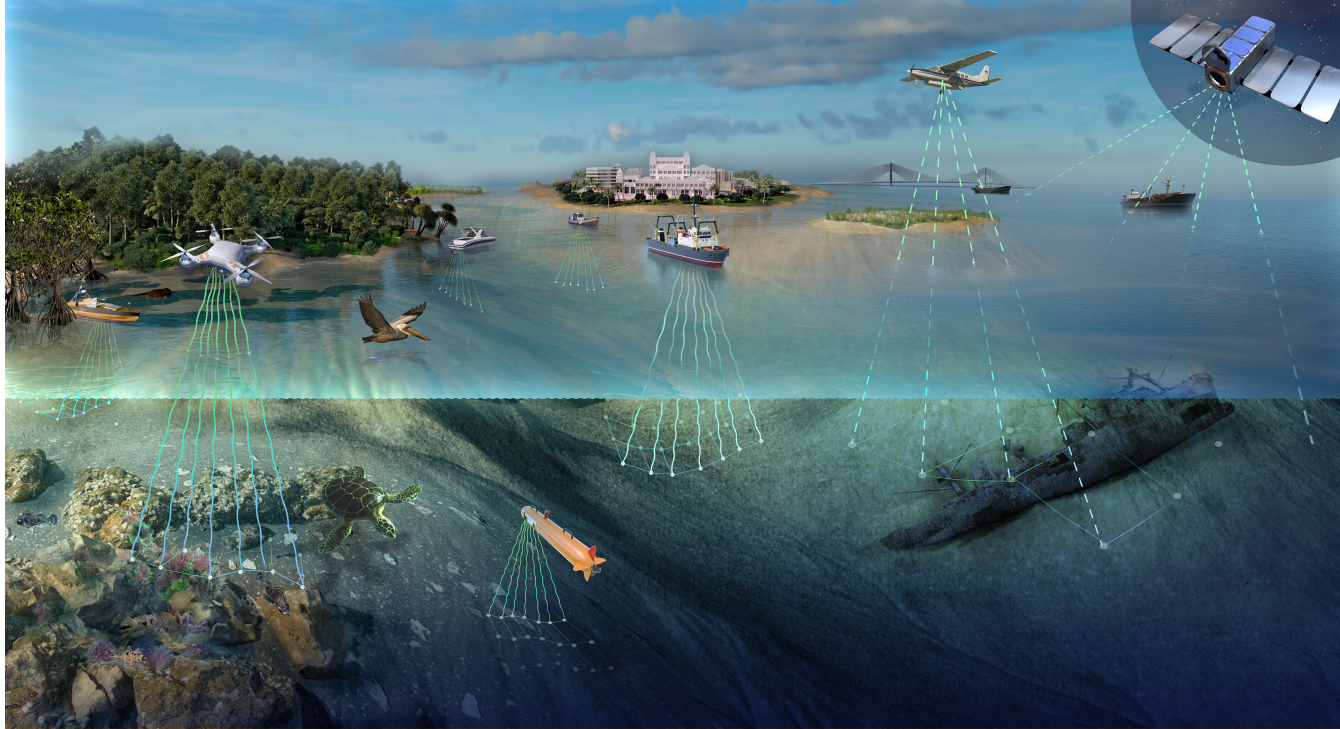
What can marine aquaculture do for the economy?

- Create new jobs
- Support resilient working waterfronts and coastal communities
- Provide new international trade opportunities

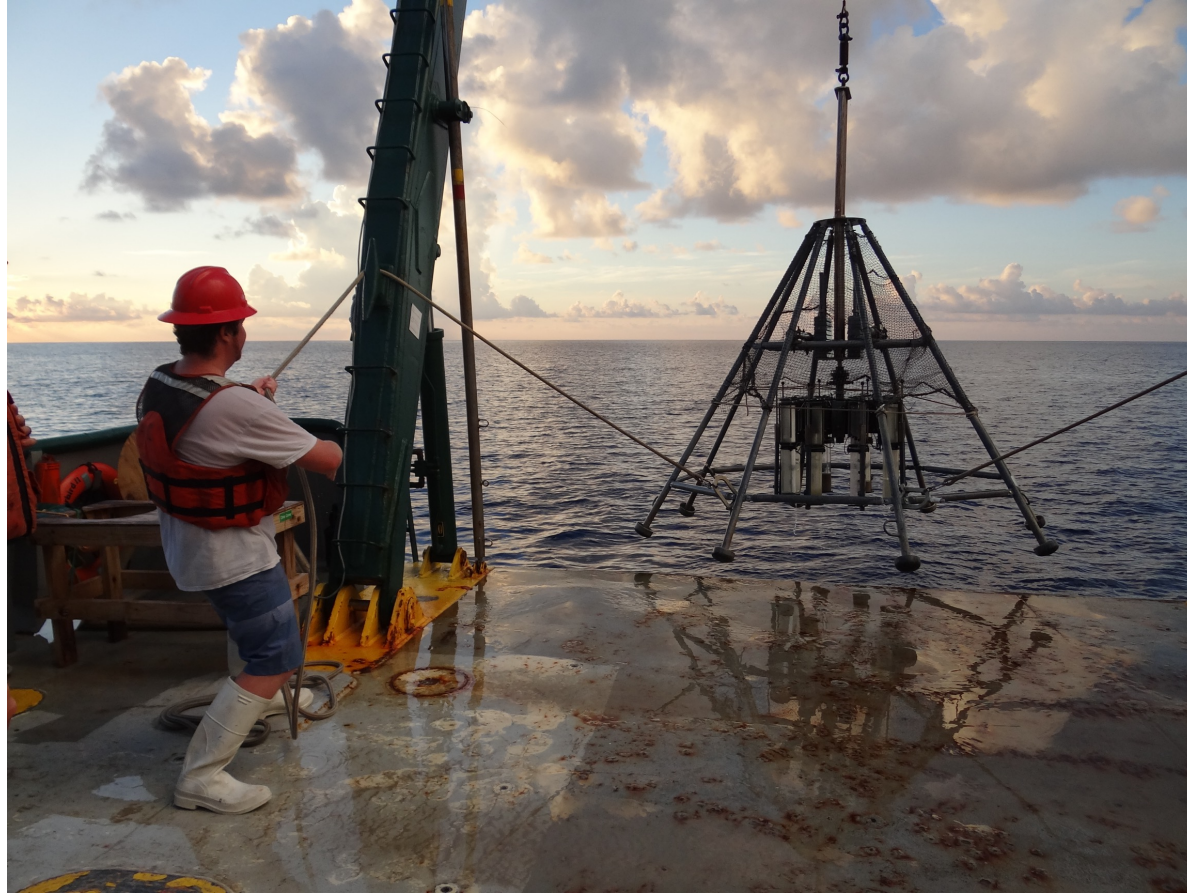
What is the future of marine aquaculture?



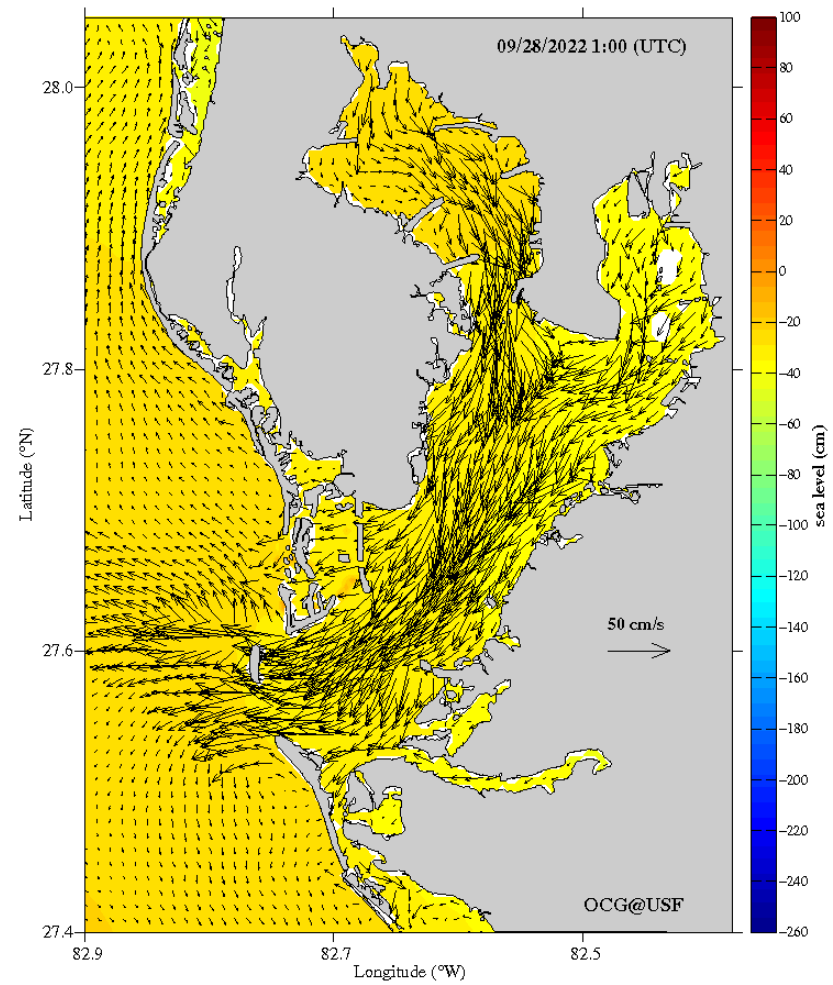
Center for Ocean Mapping and Innovative Technologies



Coastal Ocean Monitoring and Prediction System



Coastal Ocean Monitoring and Prediction System

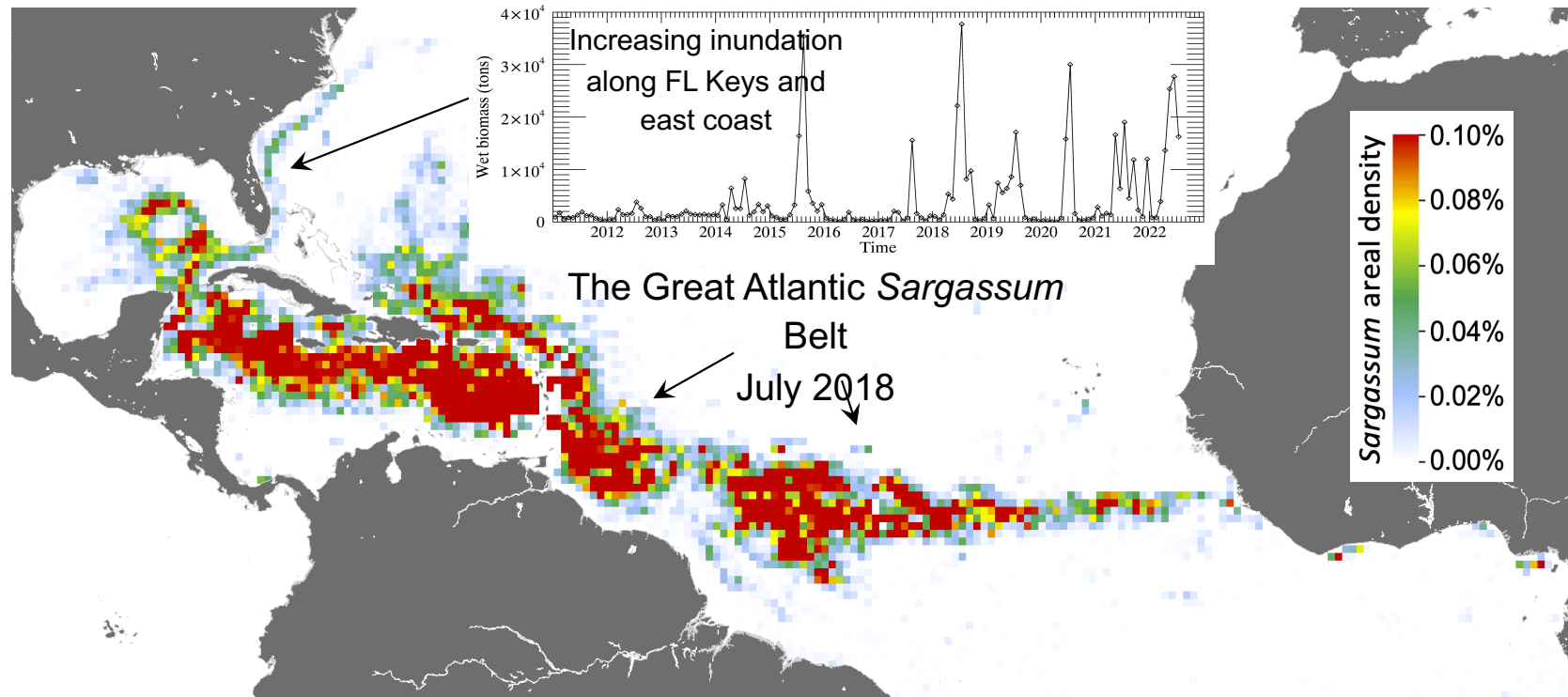


Center for Ocean Technology

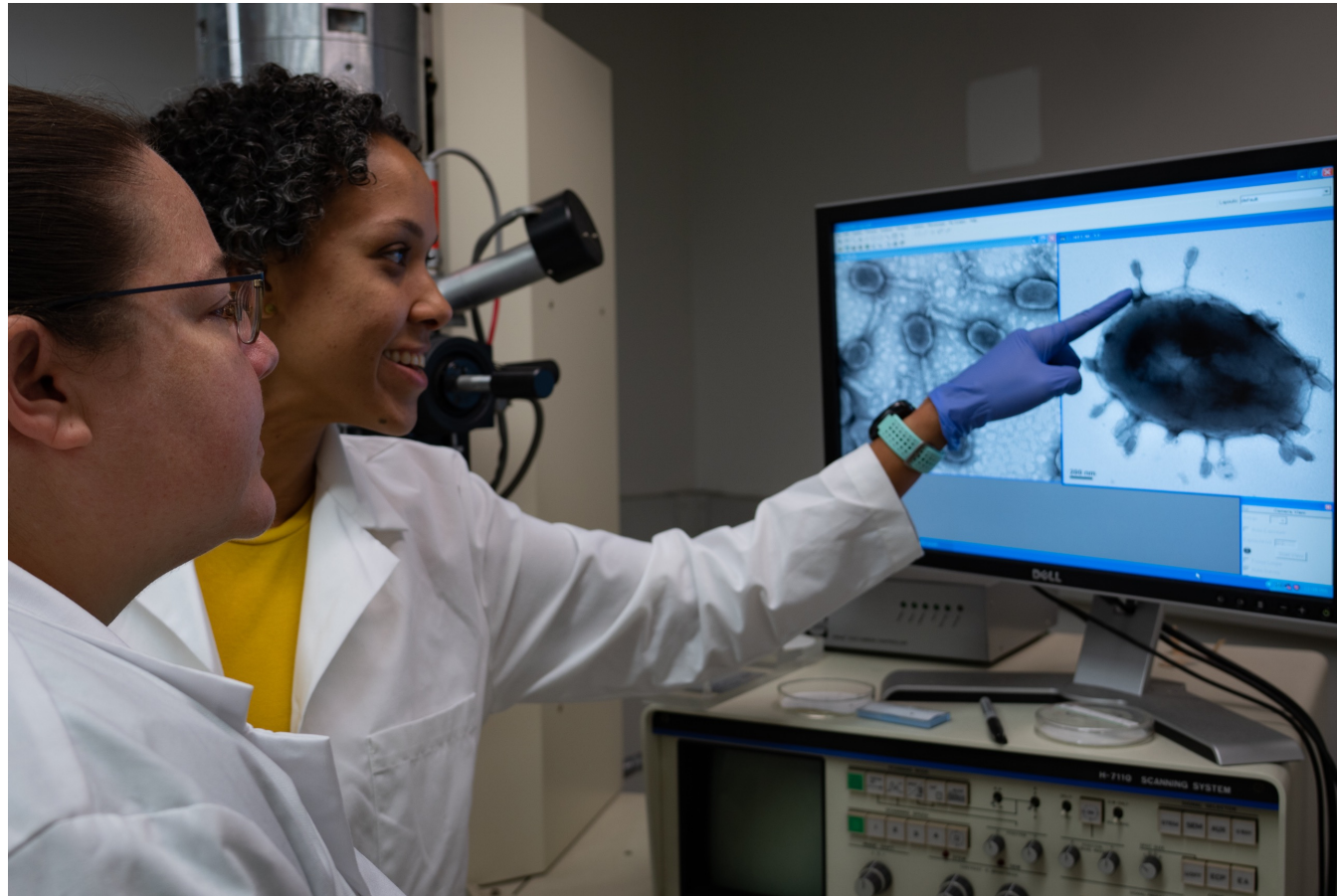


Optical Oceanography Lab

Sargassum inundation in Florida results in million dollars per year in beach clean up costs and other losses



Microbiology, Genomics, Virology, Molecular Biology





Senate Agriculture Committee Presentation

Tom Frazer - March 13, 2023
tfrazer@usf.edu

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

13 Mar 2023

Meeting Date

TAB 9

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Tom Frazer

Job Title Professor and Dean, USF College of Marine Science

Address 140 Seventh Ave South, KRC 3109 Phone 352-258-2406

Street

St. Petersburg, FL 33701

City

State

Zip

Email tfrazer@usf.edu

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing University of South Florida

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JIM BOYD

21st District

COMMITTEES:

Banking and Insurance, *Chair*
Agriculture
Appropriations Subcommittee on Agriculture,
Environment, and General Government
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Judiciary
Rules

JOINT COMMITTEE:

Joint Legislative Auditing Committee

March 13, 2024

Senator Jay Collins
335 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Collins:

I am writing to request approval to be excused from the Committee on Agriculture meeting scheduled for today, Monday, March 13, 2024, due to unforeseen weather delays.

I appreciate your consideration in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jim Boyd".

Jim Boyd

cc: Katherine Becker
Danna Ivey
Ronnie Whitaker
Nic Ancheta

REPLY TO:

☐ 717 Manatee Avenue West, Bradenton, Florida 34205 (941) 742-6445
☐ 312 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5021

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

CourtSmart Tag Report

Room: SB 301

Case No.:

Type:

Caption: Senate Committee on Agriculture

Judge:

Started: 3/13/2023 3:30:30 PM

Ends: 3/13/2023 4:35:32 PM

Length: 01:05:03

3:30:31 PM Chair Collins calls meeting to order
3:30:37 PM CAA calls roll
3:30:49 PM Quorum present
3:30:54 PM Senator Boyd excused from meeting today
3:30:58 PM Pledge of Allegiance
3:31:22 PM Chair Collins makes opening announcement
3:31:40 PM Tab 1 SM 814 by Senator Gruters
3:31:49 PM Senator Gruters takes up strike all
3:31:58 PM Take up amendment 767048
3:32:12 PM Senator Gruters explains the amendment
3:33:01 PM Questions:
3:33:03 PM Senator Rouson with question
3:33:49 PM Senator Gruters
3:33:59 PM Senator Baxley
3:34:20 PM Senator Gruters explains original bill
3:35:04 PM Appearance Forms:
3:35:10 PM Kelli Greene, waiving in support
3:35:13 PM Elizabeth DeWitt, FL Beverage Association waives in support
3:35:21 PM Sarah Katherine Massey, FI Chamber of Commerce, waiving in support
3:35:27 PM Jessica Hunter, FL Retail Federation waiving in support
3:35:33 PM Adam Basford, Associated Industries of FL waiving in support
3:35:44 PM Debate:
3:35:49 PM No debate
3:35:52 PM Waive close
3:35:55 PM Amendment 767048 adopted
3:36:07 PM No questions on bill as amended
3:36:16 PM No debate
3:36:23 PM Sen. Gruters closes on bill
3:36:32 PM Roll call on SM 814
3:36:52 PM SM 814 reported favorably
3:36:57 PM Chair handed off to Senator Mayfield
3:37:11 PM Senator Mayfield takes up tab 2
3:37:19 PM Tab 2 SB 902 by Senator Thompson
3:37:28 PM Senator Thompson explains bill
3:39:24 PM Questions:
3:39:26 PM No questions
3:39:29 PM Take up amendment 733156 Late filed
3:39:38 PM No objections
3:39:44 PM Senator Thompson explains amendment
3:40:23 PM No questions on amendment
3:40:31 PM Appearance card:
3:40:35 PM Michael Haggard speaks in favor of amendment
3:41:48 PM No debate
3:41:54 PM Senator Thompson closes on amendment
3:42:41 PM Amendment adopted
3:42:47 PM Back on bill as amended
3:42:54 PM Senator Thompson closes on bill as amended
3:44:05 PM Roll Call CS/SB 902
3:44:21 PM CS/SB 902 reported favorably
3:44:32 PM Tab 4 SB 1056 by Senator Gruters
3:44:47 PM Senator Gruters explains bill
3:45:43 PM No Questions

3:45:48 PM Appearance Card:
 3:45:52 PM Johnathan Rees, National Animal Supplement Council waives in support
 3:46:03 PM Senator Gruters waives close
 3:46:06 PM Roll Call SB 1056
 3:46:15 PM SB 1056 reported favorably
 3:46:45 PM Tab 3 SB 904 by Senator Thompson
 3:46:54 PM Senator Thompson explains bill
 3:47:16 PM No questions
 3:47:19 PM No appearance forms
 3:47:23 PM No debate
 3:47:24 PM Senator Thompson closes on bill
 3:47:31 PM Roll call on SB 904
 3:47:47 PM SB 904 reported favorably
 3:48:21 PM Tab 8 SB 1268 by Senator Rouson
 3:48:50 PM Senator Rouson explains bill
 3:49:51 PM No questions on bill
 3:49:55 PM No appearance forms
 3:49:58 PM No debate
 3:50:01 PM Senator Rouson waives close
 3:50:08 PM Roll call SB 1268
 3:50:24 PM SB 1268 reported favorably
 3:50:38 PM Tab 5 SB 1164 by Senator Collins
 3:50:57 PM Senator Collins explains bill
 3:53:46 PM Questions:
 3:53:50 PM Senator Rouson
 3:54:33 PM Senator Collins
 3:55:02 PM Senator Berman
 3:55:30 PM Senator Collins
 3:55:51 PM Senator Collins asks Kelly Friend, The Dept. of Agriculture, to answer question
 3:57:11 PM Senator Berman with question
 3:57:22 PM Ms. Friend answers
 3:57:33 PM Senator Berman with another question
 3:57:39 PM Ms. Friend answers
 3:57:57 PM Appearance Cards:
 3:58:00 PM Tripp Hunter, FL Fruit and Veg. Assn. waiving in support
 3:58:08 PM Adam Basford, Associated Industries of FL waiving in support
 3:58:15 PM Isabelle Garbarino, FL Dept. of Agriculture and Consumer Services waiving in support
 3:58:25 PM Courtney Larkin, FL Farm Bureau Federation, waiving in support
 3:58:31 PM Landon Hoffman, FL Citrus Mutual waiving in support
 3:58:38 PM Jim Spratt, FL Nursery and Landscape Association waiving in support
 3:58:48 PM No debate
 3:58:52 PM Senator Collins waives close
 3:58:58 PM Roll Call on SB 1164
 3:59:04 PM SB 1164 reported favorably
 3:59:15 PM Tab 6 SB 1166
 3:59:42 PM Senator Collins explains bill
 3:59:46 PM Questions:
 3:59:47 PM Senator Berman
 4:00:27 PM Senator Collins
 4:00:30 PM Appearance cards:
 4:00:35 PM Isabelle Garbarino, FL Dept. of Agriculture and Consumer Services waives in support
 4:00:43 PM Debate:
 4:00:44 PM Senator Berman
 4:01:15 PM Senator Collins waives close
 4:01:21 PM Roll call on SB 1166
 4:01:36 PM SB 1166 reported favorably
 4:01:45 PM Chair turned back over to Chair Collins
 4:01:53 PM Tab 7 SB 1172 by Senator Calatayud presented by Senator Simon
 4:02:37 PM Senator Simon explains bill
 4:03:29 PM Take up late filed amendment 281446
 4:03:41 PM No objections
 4:03:54 PM Senator Rouson explains amendment

4:04:37 PM No questions on amendment
4:04:46 PM No appearance forms
4:05:04 PM Question on amendment by Senator Baxley
4:05:23 PM Senator Rouson waives close on amendment
4:05:31 PM Amendment adopted
4:05:35 PM Back on bill as amended
4:05:40 PM Questions on bill as amended:
4:05:46 PM Senator Rouson
4:06:29 PM Senator Simon
4:06:42 PM Senator Mayfield
4:07:12 PM Senator Simon
4:07:26 PM Appearance form:
4:07:35 PM David Garner, speaks for bill
4:10:48 PM Debate:
4:10:53 PM Senator Berman
4:12:02 PM Senator Baxley
4:14:42 PM Chair Collins comments on bill
4:15:04 PM Senator Simon to close on bill as amended
4:15:11 PM Senator Simon waives close
4:15:14 PM Roll call CS/SB 1172
4:15:29 PM CS/SB 1172 reported favorably
4:15:39 PM Tab 9 Presentation by Tom Frazer, Professor and Dean of USF College of Marine Science
4:15:49 PM Dr. Frazer presents on Aquaculture
4:33:17 PM Questions:
4:33:20 PM Senator Berman
4:33:32 PM Dr. Frazer
4:34:09 PM No discussion
4:34:15 PM Chair Collins comments
4:34:42 PM Senator Grall vote after on SB 904, 1164, 1166, 1268 all yea
4:34:58 PM Chair Collins vote after on SB 902, 904, 1056 all yea
4:35:08 PM No objection, adopted
4:35:17 PM Senator Grall moves to adjourn
4:35:22 PM Meeting adjourned