

STORAGE NAME: h0809.ag.doc
DATE: January 25, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
AGRICULTURE AND CONSUMER AFFAIRS (CCC)
ANALYSIS**

BILL #: HB 809
RELATING TO: Department of Agriculture and Consumer Services
SPONSOR(S): Select Committee on Security and Representative(s) Goodlette & others
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) AGRICULTURE AND CONSUMER AFFAIRS (CCC)
 - (2) COUNCIL FOR COMPETITIVE COMMERCE
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

This legislation authorizes the Department of Agriculture and Consumer Services (department) to establish, by rule, requirements for aircraft used in the aerial application of pesticides, fertilizers, and/or seed. Such requirements may include record keeping, annual aircraft registration, secure storage when not in use, area-of-application information, and reporting of any sale, lease, purchase, rental, or transfer of such aircraft to another person.

The bill also provides for the department to establish, by rule, requirements for the secure storage of pesticides and fertilizers.

In addition, the bill requires the department to report to the President of the Senate and the Speaker of the House of Representatives on the implementation of rules authorized by this act. The bill also directs the Office of Program and Policy Analysis and Government Accountability to review the cost of implementation of rules adopted by the department to the aerial application industry pursuant to this legislation and report said findings to the President of the Senate and Speaker of the House of Representatives by January 1, 2003.

This legislation has no fiscal impact and will take effect upon becoming law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

Less Government: The bill requires that more detailed information be supplied to persons requesting certain information regarding aerial applicators.

B. PRESENT SITUATION:

Chapter 388, F.S., authorizes the Department of Agriculture and Consumer Services (department) to control arthropods, such as mosquitoes, to protect human health, promote the economic development to the state, and facilitate the enjoyment of its natural attractions by reducing the number of pestiferous and disease-carrying arthropods. Chapter 487, F.S., authorizes the department to regulate the distribution, sale, and use of pesticides and to protect people and the environment from the adverse effects of pesticides. Chapter 576, F.S., authorizes the department to regulate the sale and use of agricultural fertilizers.

Currently, the department does not have the authority to require the secure storage of agricultural and mosquito control aircraft and chemicals (fertilizers and pesticides) or to require the submission of aircraft and flight plan information to reduce the likelihood of theft or unauthorized access. Under current Federal Aviation Administration (FAA) Part 137 regulations, agricultural and mosquito control flight plan information is generally not required unless operations occur within controlled air space or within the vicinity of a control tower.

The department adopted an emergency rule on September 27, 2001, requiring agricultural and mosquito control aircraft operators to provide information demonstrating proper pesticide registration, FAA licensure, and aircraft registration. The emergency rule also requires the submission of daily flight plan information to authenticate operations if needed by law enforcement. The emergency rule expires at the end of the 90 days. The emergency rule was prepared under authority of the Executive Order issued by the Governor's Office on September 11 in response to the terrorist attacks on New York City and the Pentagon. The department will not have the authority to adopt additional rules dealing with aircraft and chemical security issues after the 90 day period without further legislative action.

C. EFFECT OF PROPOSED CHANGES:

See Section D., Section-by-section analysis.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 487.051, F.S., authorizing the Department of Agriculture and Consumer Services (department) to establish rules governing aircraft used in the aerial application of pesticides. Such rules must include requirements for record keeping, annual aircraft registration, secure storage, area-of application information, report of any sale, purchase or transfer of the aircraft to another person and the secure storage and distribution of pesticides used by aerial pesticide applicators.

Section 2: Amends s. 570.07, F.S., authorizing the department to adopt, by rule, requirements for aircraft used in the aerial application of pesticides, fertilizers, or seed and requirements governing record keeping, annual aircraft registration, area-of application information, report of any sale, purchase or transfer of the aircraft to another person, and secure storage of pesticides and fertilizers. Regulation of the commercial storage and distribution of pesticides, fertilizers, and seed is expressly preempted to the department.

Section 3: Amends s. 576.181, F.S., authorizing the department to establish, by rule, requirements for aircraft used in the aerial application of fertilizers and the secure storage and distribution of said fertilizers. Also provided for are requirements for record keeping, annual aircraft registration, secure storage, area-of application information, report of any sale, purchase or transfer of the aircraft to another person, and the secure storage and distribution of fertilizers used by aerial fertilizer applicators.

Section 4: Amends s. 587.11, F.S., authorizing the department to establish, by rule, requirements for aircraft used in the aerial application of seed. Also provided for are requirements for record keeping, annual aircraft registration, secure storage, area-of application information, report of any sale, purchase, or transfer of the aircraft to another person.

Section 5: Requires the department to report, by January 1, 2003, to the President of the Senate and the Speaker of the House of Representatives, on the implementation of any rule adopted under authorization of this act.

Section 6: Directs the Office of Program and Policy Analysis and Government Accountability to review the cost of implementation of rules adopted by the department to the aerial application industry pursuant to this legislation and report said findings to the President of the Senate and the Speaker of the House of Representatives by January 1, 2003.

Section 7: Provides an effective date of upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This legislation minimizes the likelihood that aircraft used in the aerial application of pesticide, fertilizer, or seed could be used in biological warfare assaults upon the public. The bill provides that aircraft owners are required to obtain locks or equivalent security measures for the aircraft and any stored chemicals. The bill also provides that aircraft registration information must be submitted annually, and the sale, purchase, or transfer of the aircraft to another person must be reported.

This legislation gives the Department of Agriculture and Consumer Services access to information regarding a pilot's flight plan and Federal Aviation Administration (FAA) licensure, as well as the aircraft registration.

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce any state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

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B. RULE-MAKING AUTHORITY:

This legislation gives the Department of Agriculture and Consumer Services (department) the authority to adopt rules to establish requirements governing aircraft used in the aerial application of pesticides, fertilizers, and/or seed. The department is also given rule-making authority to establish requirements governing the secure storage and distribution of pesticides and fertilizers.

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE AND CONSUMER AFFAIRS (CCC):

Prepared by:

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