

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/ SB 1664

SPONSOR: Committee on Agriculture and Senator Hill

SUBJECT: Florida Agricultural Worker Safety Act

DATE: March 25, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Poole</u>	<u>AG</u>	<u>Fav/CS</u>
2.	_____	_____	<u>HC</u>	_____
3.	_____	_____	<u>JU</u>	_____
4.	_____	_____	<u>AGG</u>	_____
5.	_____	_____	<u>AP</u>	_____
6.	_____	_____	_____	_____

I. Summary:

This bill creates the “Florida Agricultural Worker Safety Act” to be administered by the Department of Agriculture and Consumer Services (DACS). The intent of the act is to ensure that agricultural workers are protected from and receive information about agricultural pesticides. It specifies that the DACS shall continue to operate under the regulations established by the United States Environmental Protection Agency Labeling Requirement for Pesticides and Devices and the Worker Protection Standards, which the DACS adopted by rule during the 1995-96 fiscal year.

The bill requires an agricultural employer to provide agricultural workers and others with specific written information concerning agricultural pesticides within two working days after being requested. It would be unlawful if the employer failed to provide the required pesticide information or to take any retaliatory action against any agricultural worker. The DACS is required to monitor all complaints of retaliation and to report any findings to the Legislature on October 1, 2008.

The bill amends sections 487.011, 487.012, 487.021, 487.025, 487.031, 487.041, 487.0435, 487.045, 487.046, 487.047, 487.049, 487.051, 487.0615, 487.071, 487.081, 487.091, 487.101, 487.111, 487.13, 487.156, 487.159, 487.161, 487.163, 487.171, 487.175, 403.088, 482.242, 500.03, 570.44 of the Florida Statutes.

This bill creates part II of chapter 487 of the Florida Statutes.

II. Present Situation:

AGRICULTURAL WORKER SAFETY PROVISIONS IN CURRENT LAW:

Federal Laws Related to the Use of Pesticides and Farm Workers

In August 1992, the federal Environmental Protection Agency (EPA) promulgated the Worker Protection Standards for Agricultural Pesticides (WPS). The purpose of these standards is to reduce the risks of illness or injury resulting from worker' and handlers' occupational exposures to pesticides used in the production of agricultural plants on farms or in nurseries, greenhouses and forests and also from accidental exposure of workers and other persons to pesticides. The standards also require workplace practices designed to reduce or eliminate exposures to pesticides and to exposure-related emergencies.

The federal WPS requires employers to adhere to strict regulations designed to ensure the safety of agricultural workers. The standards require employers to:

- provide written or oral information to agricultural workers stating the type of pesticides used on the crops being harvested;
- provide personal protective equipment designed to protect the body from contact with pesticides to each farm worker;
- restrict reentry of the workers into fields after pesticides have been sprayed and advise each worker about the spraying; and
- provide facilities for the farm workers near to where they work where they can wash their hands to clean them of pesticide residue and for emergency rinsing of the eyes and mouth.

The WPS also prohibit employers from exposing farm workers to pesticides through direct spraying or drift away pesticide spray from airplanes or tractors.

There are two main offices within the federal EPA responsible for pesticide-related issues. The Office of Pesticide Programs was established to protect the public health and the environment from the risks posed by pesticides, to promote safer means of pest control, and to ensure that pesticides are fairly and efficiently regulated. The Office of Enforcement and Compliance Assurance is responsible for ensuring compliance with federal environmental statutes through regional offices across the country.

The federal Occupational Health and Safety Act of 1970 provides farm workers who work on farms with 11 or more workers with basic field sanitation facilities.

Florida Laws Related to the Use of Pesticides and Farm Workers

Chapter 487, F.S., is the Florida Pesticide Law. The Department of Agriculture and Consumer Services (department) is the primary agency for administering state pesticide laws and regulations. Chapter 487, F.S., regulates the distribution, sale, and use of pesticides [except as provided in Chapter 388, F.S., (mosquito control) and Chapter 482, F.S., (pest control)] and protects people and the environment from the adverse effects of pesticides.

Section 487.021(49), F.S., defines pesticide as “...any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses, bacteria, or fungi on or in living humans or other animals, which the department by rule declares to be a pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant...”

The department, pursuant to Chapter 487, F.S., is required to have persons who apply restricted-use pesticides licensed and certified to use such pesticides. The department can issue certified applicator licenses for public applicators, private applicators, and commercial applicators. In order for a person to be a licensed certified pesticides applicator, they must demonstrate competence by way of a written or oral examination that demonstrates adequate knowledge concerning the proper use and application of restricted-use pesticides. The applicant for a certified applicator’s license must demonstrate minimum competence as to:

- the proper use of pesticide application equipment;
- the environmental hazards that may be involved in applying restricted-use pesticides;
- calculating the concentration of restricted-use pesticides to be used in particular circumstances;
- identifying common pests to be controlled and the damage caused by such pests;
- using of protective clothing and respiratory equipment required during the handling and application of restricted-use pesticides;
- precautions to be followed in the disposal of containers, as well as cleaning and decontamination of the equipment used in the application of the pesticides;
- applicable state and federal pesticide laws, rules, and regulations; and
- general safety precautions.

The department is authorized through Chapter 487, F.S., to adopt by rule the primary standards established by the U.S. Environmental Protection Agency with respect to pesticides. Should any federal law preempt any provision in Chapter 487, F.S., any other provision in the chapter shall apply. Chapter 487, F.S., is intended as the comprehensive and exclusive regulation of pesticides in the state [s. 487.051(2), F.S.].

Section 487.0615, F.S., creates within the department the Pesticide Review Council. Its purpose is to advise the Commissioner of Agriculture regarding the sale, use, and registration of pesticides and to advise government agencies with respect to activities related to their responsibilities regarding pesticides. The council is comprised of 11 scientific members from state agencies and state universities and is empowered to do the following:

- Recommend appropriate scientific studies on any registered pesticide when data indicate that the pesticide could pose an unreasonably adverse effect on the environment or human health.
- Recommend actions to be taken by the department with respect to the sale or use of a pesticide which the council has reviewed.
- Provide advice or information to government agencies with respect to activities related to their responsibilities regarding pesticides.

- Review biological and alternative controls to replace or reduce the use of pesticides.
- Consider the development of appropriate advice or recommendations on a pesticide when data indicate that the pesticide could pose an unreasonably adverse effect on the environment or human health.
- Assist the department in the review of registered pesticides which are selected for special review based upon potential environmental or human health effects.

Section 487.1585, F.S., provides for duties of a pesticide licensee supervising unlicensed pesticide applicators and field workers. A licensed pesticide applicator must provide adequate instruction and training on the safety procedures required for applying pesticides. Such training and instruction must include:

- safety procedures to be followed as specified on the label of the pesticide;
- safety clothing and equipment to be worn;
- common symptoms of pesticide poisoning;
- the dangers of eating, drinking, or smoking while handling pesticides; and
- where to obtain medical treatment if needed.

PRIOR LAW PROVISIONS:

1994 Florida Agricultural Worker Safety Act

The 1994 Legislature created the Florida Agricultural Worker Safety Act [sections 27 and 28, ch. 94-233, L.O.F.] which was repealed on January 1, 1998.

The Act authorized the Department of Agriculture and Consumer Services to adopt by rule the requirements of the federal Environmental Protection's Labeling Requirement for Pesticides and Devices and the Worker Protection Standards for Agricultural Pesticides. The Act required agricultural employers to provide agricultural workers and others with specific written information concerning agricultural pesticides. The Act provided penalties for agricultural employers who violated any provisions of the Act. The Act required the department to monitor agricultural workers' complaints of retaliation from employers for raising issues related to the Act and to submit a report to the Legislature on such complaints.

The Act made it unlawful for any agricultural employer to fail to provide agricultural pesticide information as required in the Act or to take any retaliatory action against any worker for exercising any right under the federal Worker Protection Standard.

The Act required the department to produce a pesticide safety information sheet for agricultural workers. The Act required, as part of the information provided to farm workers, when pesticides were applied within the previous 30 days and detailed information on health and safety issues. The Act also provided for agricultural workers who had been retaliated against by employers for raising issues related to the Act to seek relief under Florida law.

The Act was repealed effective January 1, 1998, by section 28 of ch. 94-233, L.O.F.

Pesticides and the Florida Department of Health

In 1997, the Florida Department of Health began a five-year multi-state project under the National Institute for Occupational Safety and Health of the federal Center for Disease Control called the Sentinel Event Notification System for Occupational Risk Program (SENSOR).

The purpose of the SENSOR project was to build and maintain occupational illness and injury surveillance capacity with state health departments. One of the illnesses reported under SENSOR is acute occupational pesticide-related illnesses and injuries. Besides maintaining a record of the incidents of occupational pesticide-related cases, SENSOR also provided for the performance of in-depth investigations and preventive interventions aimed at particular industries. The surveillance for occupational pesticide-related illness and injury is designed to protect farm workers by determining the underlying causes for overexposure to pesticides in the workplace and to serve as an early warning system of any harmful effects not detected by the manufacturer testing of pesticides.

According to information from the Department of Health, orchards, nurseries, and farms occupy more than 25% of Florida's land area. Also, in Florida, there are more than 40,000 commercial farmers and 60,000 to 400,000 migrant farm workers.

Florida's pesticide exposure surveillance program was a collaborative effort between state agencies, county health units, the medical establishment, state universities, and farm owners and groups, and farm worker organizations and groups. Short-term outcomes of the project were to increase the reporting of occupational pesticide-related cases, describe the magnitude and trend of such cases, identify populations at risk, identify emerging pesticide problems, and increase the awareness among farm workers and the public of pesticide-related illnesses. Long-term outcomes of the project were to reduce exposure to pesticides and reduce the toxicity of pesticide exposure.

According to a 1999 report on the progress of the SENSOR program, the Florida Department of Health reported that the number of cases of acute pesticide-related illnesses detected by the department rose from an average of about 4 cases in previous years to 171 cases in 1999.

III. Effect of Proposed Changes:

Section 1. Amends s. 487.011, F.S., to provide that this part may be cited as the "Florida Pesticide Law" and shall be administered by the Department of Agriculture and Consumer Services (DACS).

Sections 2-25. Amends ss. 487.012-487.175, F.S., making technical corrections changing the term "chapter" to "part" and makes these sections conform to the bill which creates Part II of Chapter 487, F.S.

Sections 26-29. Amends subsection (1) of s. 403.088, subsection (1) of s. 482.242, paragraph (x) of subsection (1) of s. 500.03, and subsections (1) and (6) of s. 570.44, F.S., to make technical corrections referring to Part II of Chapter 487 as created by the bill.

Section 30. Creates s. 487.2011, F.S., to provide that this part may be cited as the “Florida Agricultural Worker Safety Act” to be administered by the Department of Agriculture and Consumer Services. (Part II of chapter 487, F.S., consists of sections 487.2011, 487.2021, 487.2031, 487.2041, 487.2051, 487.2061, and 487.2071, F.S.)

Creates s. 487.2021, F.S., to provide legislative intent ensuring agricultural workers are protected from and receive information about pesticides.

Creates s. 487.2031, F.S., to provide definitions for the terms “agricultural employer,” “agricultural establishment,” “agricultural plant,” “department,” “designated representative,” “fact sheet,” “material safety data sheet,” “retaliatory action,” “trainer,” and “worker.”

Creates s. 487.2041, F.S., to require the DACS to continue, to the extent that resources are available, to operate under the regulations established by the United States Environmental Protection Agency’s Labeling Requirement for Pesticides and Devices and the Worker Protection Standard.

Creates s. 487.2051, F.S., to require agricultural employers to make available to a worker certain information on agricultural pesticides. Requires the information to be in the form of a fact sheet or a material safety data sheet. Requires that such information be provided to a worker within two working days after the request by a worker, a designated representative of the worker, or medical personnel treating the worker. Upon the initial purchase of a product and with the first purchase after the material safety data sheet is updated, the distributor, manufacturer, or importer of any agricultural pesticide shall obtain or develop and provide each direct purchaser of an agricultural pesticide with a material safety data sheet. Requires the DACS to design and make available to a trainer a one-page general agricultural pesticide safety sheet. Requires the safety sheet to be in a language understood by the worker and must include, but need not be limited to, illustrated instructions on prevention of agricultural pesticide exposure and toll-free numbers to the Florida Poison Control Centers.

Creates s. 487.2061, F.S., to prohibit any person covered by this part to fail to provide required agricultural pesticide information or to take any retaliatory action.

Creates s. 487.2071, F.S., to provide for penalties against any person who violates the provisions of this part. Provides for penalties. Provides that a worker who has been subject to retaliatory action and seeks relief may file a complaint with the DACS. Requires the DACS to monitor complaints of retaliation and to report its findings to the Legislature on or before October 1, 2008. Requires the report to include the number of complaints received, the circumstances surrounding the complaints, and the action taken concerning the complaints.

Section 31. Requests the Division of Statutory Revision to designate s. 487.011 through s. 487.175, F.S., as Part I of chapter 487, entitled the “Florida Pesticide Law,” and s. 487.2011 through s. 487.2071, F.S., as created by this act, as part II of that chapter, entitled the “Florida Agricultural Worker Safety Act.”

Section 32. Provides that this act shall take effect July 1, 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Agricultural employers will be required to furnish general pesticide safety information and a written document that provides technical information about specific agricultural pesticides to workers. Estimated costs for this are unknown.

C. Government Sector Impact:

	Fund	FY 2004-05	FY 2005-06	FY 2006-07
REVENUES:		0	0	0
EXPENDITURES:				
<u>Recurring:</u>				
2 Environmental Specialist III	GR	102,284	102,284	102,284
4 Environmental Specialist II	GR	184,906	184,906	184,906
6 Standard Expense Packages	GR	59,490	41,124	41,124
4 Motor Vehicles	GR	80,000	0	0
Technology Maintenance Costs	GR	2,700	2,700	2,700
<u>Non-Recurring:</u>				
6 Standard Professional Pkg.	GR	9,000	0	0
Application Development for Pesticide Complaints	GR	31,510	0	0
TOTAL EXPENDITURES:	GR	\$469,890	\$331,014	\$331,014

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
