

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1445

Department of Agriculture and Consumer Services

SPONSOR(S): Nelson

TIED BILLS:

IDEN./SIM. BILLS: SB 2348

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Agriculture & Natural Resources Policy Committee	11 Y, 0 N, As CS	Kaiser	Reese
2)	Natural Resources Appropriations Committee		Bellflower	Dixon
3)	General Government Policy Council			
4)				
5)				

SUMMARY ANALYSIS

CS/HB 1445 addresses several issues related to agriculture and the powers and duties of the Department of Agriculture and Consumer Services (department). The bill:

- gives the Department of Environmental Protection (DEP) rule-making authority to periodically update the Model Ordinance (model ordinance) for Florida-Friendly Fertilizer Use on Urban Landscapes;
- requires local governments, in some areas, to meet certain criteria prior to adopting additional or more stringent standards relating to the model ordinance;
- allows on-line submission of certain applications to the department;
- requires a security officer school or recovery agent school to obtain the division’s approval for use of a fictitious name;
- requires all 40 hours of training be completed prior to private investigator intern and security officer licensees submitting their applications;
- specifies the quantity of antifreeze to be submitted to the department for testing;
- authorizes the department to collect fees for the analysis and inspection of ethanol;
- removes language restricting the stop-sale order for brake fluid to be confined to the location where the violation occurred;
- changes the registration renewal fee for brake fluid from \$50 to \$100;
- transfers to the food banks and food recovery programs the responsibility to provide pertinent information to the department for dissemination to the public;
- provides for audits on marketing orders to be performed at the request of the advisory council associated with the marketing order;
- allows the inspection and registration of sites in the natural environment where aquatic plants are tended for harvest;
- increases the administrative fine cap for violations relating to plant industry;
- deletes language regarding the grading of poultry, which has not been used in 10 years;
- grants the department authority to delegate to local governments the issuance of authorizations for open burning;
- establishes a certified pile burner program within the department;
- amends the Florida Farm Winery program to recognize wine produced from agricultural products other than grapes;
- exempts tropical foliage from the provisions of the License and Bond law;
- clarifies that if a dealer in agricultural products fails, refuses or neglects to apply and qualify for a license renewal on or before its expiration date, a penalty shall apply;
- grants the department the authority to issue a stop-operation order for amusement rides;
- exempts contracts involving sellers of travel from the requirements of a written contract;
- requires a concealed firearm license applicant to submit fingerprints administered by the department; and,
- repeals language relating to the Florida Agricultural Museum as well as the Florida Agricultural Exposition from statute.

This bill has a positive fiscal impact on state revenues.

The effective date of this legislation is July 1, 2010.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Florida Friendly Fertilizer:

In 2009, the Legislature passed CS/CS/CS/SB 494, relating to water conservation. Among other things, the bill directed the Department of Environmental Protection (DEP) to adopt and enforce a Model Ordinance (model ordinance) for Florida-Friendly Fertilizer Use on Urban Landscapes by January 15, 2010, for adoption by local governments, which may adopt the ordinance by October 1, 2010. The model ordinance assesses penalties on licensed contractors in violation of certain requirements, including the requirement to inspect automatic landscape irrigation systems and report systems not in compliance with statutory requirements. It allows for regular maintenance of broken systems without assessing penalties when fixed within a reasonable time. The funds raised through penalties are dispersed for water-conservation activities and for administration and enforcement activities.

CS/CS/CS/SB 494 also provided legislative findings regarding the beneficial effect of the implementation of the model ordinance and encouraged adoption by local governments. It dictated adoption by local governments that are located in an area where water is impaired by certain nutrients, and allowed local governments to adopt more stringent standards if specified criteria are met. Local governments that have adopted their own ordinance prior to January 1, 2009, are exempt from these provisions, as are farm operations.

The bill revises, in statute, the edition of the current model ordinance. The bill also gives DEP rule-making authority to periodically update the model ordinance, in cooperation with the Florida Consumer Fertilizer Task Force, the Department of Agriculture and Consumer Services, and the University of Florida's Institute of Food and Agricultural Sciences.

The bill requires local governments that are located in an area where water is impaired by certain nutrients to adopt the most recent version of the model ordinance. In areas where water is impaired, the bill provides criteria for local governments to adhere to prior to adopting additional or more stringent standards than the model ordinance. The criteria include:

- Components to be included in the comprehensive program.
- A review and report by a workgroup¹ addressing the economical and technical feasibility of enforcing the proposed additional or more stringent standards.
- Documentation in the public record of the need for more stringent standards. If an agency/organization providing input challenges the scientific basis of the proposed standards, the local government must address these concerns prior to adoption.

And lastly, the bill exempts lands currently used in urban stormwater, water quality, agronomic or horticultural research from the provisions regulating fertilizer use.

Division of Licensing:

The Division of Licensing (division) oversees the regulation of private security, private investigative and recovery services, as well as the issuance of licenses to carry concealed weapons or concealed firearms. Current law is not clear regarding the management of a security agency by an actively employed law enforcement officer. The bill clarifies this provision stating that an actively employed law enforcement officer is not allowed to manage a security agency.

Current law² requires applications for private security, private investigative and/or repossession services be submitted in writing. With the advent of Internet accessibility, the bill changes current law to accommodate the submission of applications on-line.

Current law does not provide the public with the ability to determine the owner of an entity. The bill requires a security officer school or recovery agent school to obtain the division's approval for use of a fictitious name. The bill also clarifies that an agency licensee structured as a sole proprietor or partnership may do business under one fictitious name. However, an agency licensee structured as a corporation or limited liability company (LLC) can conduct business under the corporate/LLC name or under one fictitious name per license.

Current law allows certain classes of private investigative and security officers to take their required educational training in two parts: 24 hours prior to application and 16 hours post application. It is difficult for the division to monitor the completion of the post application training. The bill requires private investigative intern and security officer applicants to complete the entire 40 hours of training prior to submitting their application. The bill also clarifies that because bodyguard service is not investigative-related, it does not satisfy the experience requirement for persons applying for a private investigator intern license or security officers license.

Additionally, the bill updates Florida statutes to conform to federal laws and terminologies; provides flexibility in payment methods for fees; and corrects outdated references.

Antifreeze Act of 1978

The Antifreeze Act of 1978³ provides guidance to the Department of Agriculture and Consumer Services (department) regarding the regulation of antifreeze products in the state. Current law requires properly labeled samples of antifreeze to be furnished to the department for testing prior to the issuance of a permit. While specific sample amounts are required to perform the necessary testing, the amounts are not stipulated in statute. Therefore, some samples submitted are not adequate to perform the necessary tests, while other samples are too large, thus necessitating disposal of the excess antifreeze. The bill amends current law to specify a quantity to be submitted for testing.

¹ The workgroup shall include a representative of the local government appointed by its governing body; a representative of the fertilizer applicator industry appointed by the Florida Nursery, Growers and Landscape Association, Inc.; a representative of a retail business that sells fertilizer appointed by the Florida Retail Federation, Inc.; a representative of the Department of Environmental Protection; and a representative of the Department of Agriculture and Consumer Services.

² Section 493.6105, F.S.

³ Sections 501.91-501.923, F.S.

Gasoline and Oil Inspection

Chapter 525, F.S., governs the regulation of gasoline and oil inspection in the state. In the recent past, ethanol has begun to be blended in 70-80 percent of all gasoline sold in Florida. And by December 31, 2010, all gasoline sold in Florida will be required to contain 9-10 percent ethanol. Additionally, the presence of E85 (85 percent ethanol and 15 percent gasoline) is gaining attention in Florida for use in Flex Fuel Vehicles. Although E85 does not have a large presence at this time, it is anticipated to increase in volume in the near future.

The department is given statutory authority⁴ to collect fees to defray the cost of inspecting and analyzing specified petroleum fuels. Even though the department is required to collect and analyze ethanol before it has been blended with gasoline, ethanol is currently not subject to the petroleum inspection fee. The bill includes ethanol in the list of petroleum fuels subject to the surcharge for inspection and testing.

Sale of Brake Fluid

Businesses that sell and distribute brake fluid products in Florida must meet certain requirements in order to register or renew registration of their products. Even though the cost to the department to renew a registration for brake fluid as compared to the original registration is the same, the fee for renewal is less than the registration fee. Hence, the fee to renew the product does not cover the cost to the department of materials, labor and analysis to register the renewal. The bill changes the renewal fee from \$50 to \$100.

Currently, the department may only issue a stop-sale order on brake fluid at the location where the violation occurred. If the violation deals with product quality, brake fluid from the same "lot" may be available for sale at other locations in the state. The bill removes language that restricts the stop-sale order to only the location where the violation occurred.

Sale of Liquefied Petroleum Gas (LP Gas)

Chapter 527, F.S., regulates the sale and use of LP gas in Florida. Currently, the statutes do not provide the department authority to issue stop-use, stop-operation, or stop-sale orders when a LP gas regulated entity fails to comply with the requirements of Chapter 527, F.S., or the rules promulgated under this section of law. While not all violations of the LP gas law meet the criteria⁵ for an immediate final order, the department currently lacks the authority to issue stop-operation orders when violations occur. The bill authorizes the department to issue stop-use, stop-operation, and stop-sale orders as warranted.

Food Recovery Programs

Florida law⁶ requires the department to develop a public information brochure detailing the need for and benefit of food recovery programs, the manner in which organizations may become involved in food recovery programs, the protection afforded to such programs under Florida law⁷, and the food recovery programs or food banks that exist in the state. Current law also requires the brochure to be updated annually.

The department states that, as the law is currently written, production of an accurate publication is not feasible for the following reasons:

- The department does not have access to information regarding food recovery entities or food banks operating in the state unless they currently contract with the department.
- Theoretically, any food bank, food pantry, soup kitchen, shelter, etc., may accept recovered food. The statutes provide no definition for these entities.
- Sub-distributing entities, such as food banks, food pantries, soup kitchens, etc., may number in the thousands.

⁴ Section 525.09, F.S.

⁵ To issue an immediate final order, the department must find an immediate serious danger to public health, safety and welfare.

⁶ Section 570.0725, F.S.

⁷ Section 768.136, F.S.

The bill makes the public dissemination of information on food banks and food recovery programs optional for the department. The bill also transfers the responsibility to the food banks and food recovery programs to provide pertinent information to the department for dissemination to the public. The department is given rule-making authority to implement the provisions of this legislation.

Plant Industry:

In 2008, the department assumed responsibility for the regulation of aquatic plants, including harvesting, distribution and sale. The current definition of nursery excludes aquatic plants harvested from the natural environment. The bill removes the exemption of aquatic plants from the definition of nursery to allow for the identification, inspection and registration of sites in the natural environment where aquatic plants are tended for harvest. The department states that monitoring of these sites will ensure that over-collection does not occur or otherwise damage the ecosystem in which the aquatic plants thrive.

The law currently authorizes the department, after notice and hearing, to impose an administrative fine not exceeding \$5000 per violation relating to plant industry laws. This fine cap has not been raised in more than 30 years and is no longer commensurate with the damage that may result to agriculture or the environment. For example, a nursery that unlawfully sells nursery stock that is under quarantine for an exotic pest can result in a new pest species being introduced throughout the state, making eradication difficult and costly. With fines capped at \$5000 per infraction, the amount to be gained by the seller from selling a quarantined plant may far outweigh the monetary penalty. The bill increases the administrative fine cap to \$10,000 per violation.

Sale of Eggs and Poultry

State law⁸ provides for dressed or ready-to-cook poultry offered for sale in bulk in the state to be held in a container clearly labeled with the grade and the part name or whole-bird statement of such poultry. The grade may be expressed as “premium,” “good,” or “standard.” The grade may also be expressed in terms of equal standard as used in other states or by a federal agency. The United States Department of Agriculture (USDA) recently advised the department that current statutory language⁹ violates the Poultry Products Inspection Act because it preempts federal law. The bill deletes language regarding the grading of poultry, which has not been used in 10 years.

Forest Protection

Currently, the Division of Forestry (division) does not have the statutory authority to delegate issuance of open burning authorizations to local governments, although many local governments have expressed an interest, and ability, to implement a burn authorization program with division guidance. Some counties issue permits under their own authority, but the division is required to come behind and re-issue daily authorization due to the lack of delegation authority.

The bill authorizes the delegation of authority to issue authorizations for open burning by the division to local governments. The local government’s program must be approved by the division, provide ordinance or local law that complies with state law, provide enforcement of the program’s requirements and provide financial, personnel and other resources needed to carry out the program. If the division determines that a local government’s program does not comply with state law or corresponding rules, the division can require the local government to take corrective action within a reasonable timeframe. If the local government fails to comply within the allotted time, the division shall resume administration of the open burning authorization program from the local government. Local governments administering an open burning authorization program are responsible for cooperating and assisting the division in carrying out the division’s powers, duties and functions. Violations of a local government’s open burning authorization program are subject to penalties as provided in s. 590.14, F.S.

In November, 2006, the division implemented a Certified Pile Burner program (program). The bill codifies this program in statute. It provides definitions for “certified pile burner,” “pile burning,” “land-clearing operation” and “yard trash,” as well as revises the definition of “extinguished.” The bill requires the certified pile burner to ensure that:

⁸ Section 583.13(1), F.S.

⁹ Id.

- Prior to ignition, the piles are properly placed and the content is conducive to efficient burning.
- The piles are properly extinguished no later than 1 hour after sunset. In certain areas, the piles must be properly extinguished at least 1 hour before sunset.
- The specific consent of the landowner or his agent must be obtained before requesting authorization to burn.
- An authorization to burn has been obtained from the division prior to ignition.
- There are adequate firebreaks and sufficient personnel and firefighting equipment at the burn site to control the fire.

If a burn is conducted in accordance with the provisions of the program, the property owner and his/her agent are not liable under applicable Florida law¹⁰ for damage or injury caused by the fire or resulting smoke unless gross negligence is proven. Violations of program provisions are a misdemeanor of the second degree, punishable by imprisonment not exceeding 60 days or a \$500 fine. The division is given rule-making authority to implement the certified pile burning program.

The bill also delegates to the county tax collector the responsibility for sending notices of Wildfire Hazard Reduction Treatment to landowners in wildfire hazard areas.

The bill recognizes the violation of division rules as a criminal act. When the division sets burn restrictions by rule, nothing in the statutes allows enforcement of these rules. Therefore, there is no retribution for someone who chooses not to comply.

Florida Farm Winery Program

Currently, the Florida Farm Winery program is limited to those wineries that produce wine from grapes. Several Florida wine producers use fruits, other than grapes, and vegetables to make wine. However, these producers are not eligible to be registered and certified by the department as Florida Farm Wineries. The bill amends the Florida Farm Winery Program to recognize wine produced from products other than grapes.

Dealers in Agricultural Products

The Florida License and Bond Law (law)¹¹ was enacted in 1941 to give market protection to producers of perishable agricultural commodities. The law is intended to facilitate the marketing of Florida agricultural products by encouraging a better understanding between buyers and sellers and by providing a marketplace that is relatively free of unfair trading practices and defaults.

In 2004, the Committee on Agriculture in the Florida House of Representatives reviewed the law as part of an interim project and recommended changes to the then-current statutes. During the 2005 legislative session, HB 1231 implemented the recommendations suggested by the interim project. Based on one of the recommendations, the bill amended the definition of the term “agricultural products” to include tropical foliage as a non-exempt agricultural product produced in the state. Until that point, tropical foliage had been exempt from the provisions of the law. For the most part, agricultural products considered exempt from the law are generally those offered by growers or groups of growers selling their own product(s); all persons who buy for cash and pay at the time of purchase with U.S. currency; dealers operating as bonded licensees under the Federal Packers and Stockyards Act; or retail operations purchasing less than \$1,000 in product per month from Florida producers.

Due to the manner by which the foliage business is conducted, the change implemented by HB 1231 has not proven beneficial to the foliage industry, and the industry has requested a reenactment of the exemption. This bill reverses the legislation enacted in 2005 and returns tropical foliage to exempted status from the provisions of the law.

The bill also amends current law to clarify that no person who has held a responsible position with a person, partnership, corporation or other business entity against whom the department has entered an administrative complaint, final order or whose license has been suspended or revoked for failure to

¹⁰ Section 590.13, F.S.

¹¹ Sections 604.15-604.34, F.S.

comply with an order of the department may hold a responsible position with an agricultural dealer, licensed or otherwise, until the pending order has been satisfied. This is intended to close a loophole for individuals who register a corporation for the purchasing of agricultural products and then shut it down to avoid licensure or enforcement only to register a new corporation and continue operating without a license.

Safety Standards for Amusement Rides

Section 616.242, F.S., provides regulatory authority to the department for the safe operation of amusement rides in the state. Currently, the department does not have authority to issue a stop-operation order to an owner of an amusement ride that does not comply with the requirements of Chapter 616, F.S., or department rules. There are many potential violations of amusement ride laws that do not meet the criteria¹² for issuance of an immediate final order. The bill grants the department the authority to issue a stop-operation order in instances where a violation occurs that does not rise to the level of an immediate serious danger.

Sellers of Travel:

Section 686.201, F.S., requires the agreement between a principal and any sales representative paid on a commission basis to be subject to a written contract signed by both parties. If the contract is not in writing and it is terminated, failure to pay the commission within 30 days makes the principal to an action liable for treble damages, attorney's fees and cost.

In the Florida travel industry, travel packages, cruise vacations, time share units, hotel rooms, etc., are routinely made available by providers, often via websites, to "sellers of travel" registered under Part XI of Chapter 550, F.S. The sellers of travel may then sell those services to the public. In such instances, the provider generally has no exclusive relationship with the seller of travel involved, so it is particularly burdensome and costly for a travel provider to enter into a separate written contract with every seller of travel who may decide to access the provider's travel offerings. Moreover, there is no real confusion in the travel industry regarding commissions and payment terms because such conditions are routinely published by travel providers and made available to all sellers of travel. As such, section 686.201, F.S., imposes what appear to be unnecessary costs on travel providers without conferring any real public benefit.

The bill exempts contracts involving sellers of travel from the requirements of a written contract.

Miscellaneous:

In several statutory cites, for which the department has oversight, the department is required to obtain social security numbers of the applicants. The bill deletes this requirement because social security numbers are no longer needed or used.

During the 2008 regular session, the Legislature removed all funding for the Florida Agricultural Museum due to a decrease in use and significant increases in the cost of operation. Section 570.901, F.S., referencing the Florida Agricultural Museum is being repealed, by this bill, from statute, as well as other cross-references to the museum. Section 570.071, F.S., relating to the Florida Agricultural Exposition, is also being repealed from statute.

The bill provides for audits on marketing orders to be performed at the request of the advisory council associated with the marketing order. Previously, an annual audit by a certified public accountant was required.

The bill requires a concealed firearm license applicant to submit fingerprints administered by the Division of Licensing.

The bill also removes references to the Florida State Collection of Arthropods contract with the department as a direct service organization, which ended several years ago.

¹² To issue an immediate final order, the department must find an immediate serious danger to public health, safety and welfare.

B. SECTION DIRECTORY:

Section 1: Amends s. 403.9336, F.S.; amends the legislative findings regarding the implementation of the Model Ordinance (model ordinance) for Florida-Friendly Fertilizer Use on Urban Landscapes.

Section 2: Amends s. 403.9337, F.S.; revises edition of the model ordinance; requires counties to adopt most recent version of model ordinance; provides criteria to be included in the comprehensive program; requires the local government to convene a workgroup consisting of specific representatives; requires the local government to document the need for more stringent standards; requires the local government to address concerns relating to criteria for more stringent standards; and, exempts lands used for certain research from provisions regulating fertilizer use on urban landscapes.

Section 3: Amends s. 493.6102, F.S.; provides that certain provisions relating to security officers do not apply to certain officers performing off-duty activities.

Section 4: Amends s. 493.6105, F.S.; revises information to be included in an application for private investigators, private security officers and recovery agents.

Section 5: Amends s. 493.6106, F.S.; revises citizenship requirements and documentation for private investigators, private security officers and recovery agents; and, requires applicants to have the right to purchase or possess a firearm.

Section 6: Amends s. 493.6107, F.S.; revises methods by which fees may be paid.

Section 7: Amends s. 493.6108, F.S.; revises requirements for criminal history checks of license applicants whose fingerprints are not legible; and, requires investigation of the mental and emotional fitness of the applicants for firearms instructor licenses.

Section 8: Amends s. 493.6111, F.S.; requires security officer school or recovery agent school to obtain department approval for use of a fictitious name.

Section 9: Amends s. 493.6113, F.S.; revises application renewal procedures and requirements.

Section 10: Amends s. 493.6115, F.S.; conforms cross-references.

Section 11: Amends s. 493.6118, F.S.; revises grounds for disciplinary action.

Section 12: Amends s. 493.6121, F.S.; deletes provisions for department access to certain criminal history records provided to licensed gun dealers.

Section 13: Amends s. 493.6202, F.S.; revises methods by which fees may be paid.

Section 14: Amends s. 493.6203, F.S.; clarifies that bodyguard services do not count toward certain license requirements; and, revises training requirements for private investigator intern license applicants.

Section 15: Amends s. 493.6302, F.S.; revises methods by which fees may be paid.

Section 16: Amends s. 493.6303, F.S.; revises training requirements for security officer license applicants.

Section 17: Amends s. 493.6304, F.S.; revises application requirements and procedures for security school licenses.

Sections 18-20: Amends ss. 493.6401, 493.6402, and 493.6406, F.S.; revises out-dated terminology.

Sections 21-22: Amends ss. 501.605 and 501.607, F.S.; revises information to be included on license for commercial telephone seller.

Section 23: Amends s. 501.913, F.S.; revises size of antifreeze sample to be submitted to the department with application.

Section 24: Amends s. 525.01, F.S.; revises requirements for petroleum fuel affidavits.

Section 25: Amends s. 525.09, F.S.; imposes an inspection fee on certain alternative fuels containing alcohol.

Section 26: Amends s. 526.50, F.S.; provides definitions for “brand” and “formula.”

Section 27: Amends s. 526.51, F.S.; revises brake fluid permit application requirements; deletes permit renewal requirements; provides for reregistration of brake fluid; and establishes fees.

Section 28: Amends s. 526.52, F.S.; revises information to be included on brake fluid labels.

Section 29: Amends s. 526.53, F.S.; revises criteria for issuing a stop-sale order.

Section 30: Amends s. 527.0201, F.S.; revises requirements for liquefied petroleum gas qualifying examinations; and, increases continuing education requirements for certain liquefied petroleum gas qualifiers.

Section 31: Amends s. 527.12, F.S.; authorizes the department to issue a stop-use order, stop-operation order or stop-sale order for violations relating to liquefied petroleum gas.

Sections 32-33: Amends ss. 559.805 and 559.928, F.S.; deletes requirements that lists of independent agents of sellers of business opportunities and the agents’ registration affidavits include the agents’ social security numbers.

Section 34: Amends s. 570.0725, F.S.; revises provisions for public information regarding food banks and food recovery programs; and, grants rule-making authority to the department.

Sections 35-36: Amends ss. 570.53 and 570.54, F.S.; conforms cross-references.

Section 37: Amends s. 570.55, F.S.; revises requirements for identifying sellers or handlers of tropical fruit or vegetables.

Section 38: Amends s. 570.902, F.S.; revises definitions.

Section 39: Amends s. 570.903, F.S.; deletes references to the Florida Agricultural Museum; and, deletes references to the Florida State Collection of Arthropods.

Section 40: Amends s. 573.118, F.S.; provides for an audit of marketing orders when requested by the advisory council; requires audit to be completed within a specified timeframe; and, requires a copy of the audit to be provided to the advisory council within a specified timeframe.

Section 41: Amends s. 581.011, F.S.; revises definitions.

Section 42: Amends s. 581.211, F.S.; increases penalty for violations of plant industry regulations.

Section 43: Amends s. 583.13, F.S.: deletes a prohibition on the sale of poultry without displaying the poultry grade.

Section 44: Amends s. 590.125, F.S.; revises definitions for pile burning authorizations; specifies purposes of certified prescribed burning; requires the authorization of the Division of Forestry (division) for certified pile burning; provides pile burning requirements; limits the liability of property owners or agents engaged in pile burning; provides for the certification of pile burners; provides penalties for

violations by certified pile burners; requires rules; revises notice requirements for wildfire hazard reduction treatments; provides for approval of local government open burning authorization programs; provides program requirements; authorizes the division to close local government programs under certain circumstances; and, provides penalties for violations of local government open burning requirements.

Section 45: Amends s. 590.14, F.S.; authorizes fines for violations of any division rules; provides penalties for certain violations; and, provides legislative intent.

Section 46: Amends s. 599.004, F.S.; revises standards that a winery must meet to qualify as a certified Florida Farm Winery.

Section 47: Amends s. 604.15, F.S.; revises the term “agricultural products” to make tropical foliage exempt from regulation under provisions relating to dealers in agricultural products; and, defines the term “responsible position.”

Section 48: Amends s. 604.19, F.S.; revises requirements for late fees on agricultural products dealer applications.

Section 49: Amends s. 604.25, F.S.; prohibits certain persons from holding a responsible position with an agricultural products dealer; and, authorizes the suspension or revocation of an agricultural products dealer license for employing such a person.

Section 50: Amends s. 616.242, F.S.; authorizes the issuance of stop-operation orders for amusement rides under certain instances.

Section 51: Amends s. 686.201, F.S.; exempts contracts involving a seller of travel from the requirements of that section.

Section 52: Amends s. 790.06, F.S.; requires a concealed firearm license applicant to submit fingerprints administered by the Division of Licensing.

Section 53: Repeals ss. 570.071 and 570.901, F.S.; repeals language relating to the Florida Agricultural Exposition and Florida Agricultural Museum.

Section 54: Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

	(FY 10-11) Amount / FTE	(FY 11-12) Amount / FTE	(FY 12-13) Amount / FTE
1. Recurring Standards - GITF			
Section 25 – Alternative Fuels	\$1,066,000	\$1,097,312	\$1,122,550
Section 27- Brake Fluid- GITF			
Marketing - GITF	\$ 11,850	\$ 11,850	\$ 11,850
Section 47 – Tropical Foliage	(\$ 22,800)	(\$ 22,800)	(\$ 22,800)

Total Revenue By Fund:

GITF	<u>\$ 1,055,050</u>	<u>\$ 1,086,362</u>	<u>\$ 1,111,600</u>
Grand Total – Revenue:	<u>\$ 1,055,050</u>	<u>\$ 1,086,362</u>	<u>\$ 1,111,600</u>
2. Non-Recurring	NA	NA	NA

- 2. Expenditures:
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

- 1. Revenues:
Indeterminate.
- 2. Expenditures:
Indeterminate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Many Agricultural Dealers will see a reduction in the amount of bond required to obtain a license.

D. FISCAL COMMENTS:

The Department of Environmental Protection has indicated that this bill will require the department to adopt by rule the updated versions of the Model Ordinance for Florida-Friendly Use on Urban Landscapes. The Model Ordinance document was previously created and maintained through a collaborative effort including stakeholders, other state agencies, and the University of Florida’s Institute of Food and Agriculture Sciences. Adoption by rule will use a significant amount of staff time that was not previously required.

This bill will also have fiscal implications associated with the requirement for local governments to convene a workgroup responsible for conducting a review of additional more stringent non-point source nutrient pollution standards proposed by local governments. The local governments would be required to have one representative from the department. This would require one member of the department’s staff to attend meetings and provide comments which would require a significant amount of staff time as well as travel dollars. Depending on how many local governments would require additional or more stringent non-point source nutrient pollution standards, this could become a substantial workload for the department requiring additional staff to perform the required duties.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

- 1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have

to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

The Department of Environmental Protection is given rule-making authority to update the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes.

The Department of Agriculture and Consumer Services is given rule-making authority to administer the public dissemination of information regarding food banks and food recovery services and to regulate certified pile burning.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 17, 2010, the Agriculture and Natural Resources Policy Committee amended and passed HB 1445 as a Committee Substitute (CS). The amendment removed language from the bill relating to minimum amounts for surety bonds or certificates of deposit required for agricultural products dealer licenses. The amendment inserted language into the bill authorizing the Department of Agriculture and Consumer Services to issue a stop-operation order for amusement rides.