

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/CS/HB 1231 Agricultural Practices

SPONSOR(S): Commerce Committee, Ways & Means Committee, Agriculture & Property Rights Subcommittee, Raburn and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1536

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Property Rights Subcommittee	15 Y, 0 N, As CS	Thompson	Smith
2) Ways & Means Committee	18 Y, 0 N, As CS	Dugan	Langston
3) Commerce Committee	20 Y, 0 N, As CS	Thompson	Hamon

SUMMARY ANALYSIS

The bill amends laws relating to motor vehicle license taxes and pesticide registration fees in the agricultural industry.

Current law provides an agricultural restricted license plate with a reduced annual license tax for an eligible truck tractor or heavy truck, not operated as a for-hire vehicle, which is engaged exclusively in transporting raw, unprocessed, and non-manufactured agricultural or horticultural products, within a 150 mile radius of its home address. The fee for the restricted license plate is \$87.75 flat for vehicles that weigh less than 44,000 pounds, or \$324 flat for vehicles that weigh 44,000 pounds or more and only transport from the point of production to the point of primary manufacture, assembling, or shipping. Similarly, the law provides a restricted license plate with a reduced annual license tax for a truck tractor that is used within 150 miles of its home address for hauling forestry products, or forestry products and associated equipment. The fee for the forestry restricted license plate is \$324 flat.

The bill revises the eligibility requirements for the agricultural and forestry restricted license plates by removing the 150 mile distance restriction.

Current law requires pesticide registrants to pay a supplemental fee for pesticides that contain an active ingredient for which the United States Environmental Protection Agency has established a food tolerance limit in 40 C.F.R. part 180. The supplemental fee is currently \$630 per brand of pesticide. The fee is deposited into the General Inspection Trust Fund and used by the Department of Agriculture and Consumer Services (department) for pesticide residue testing for food safety. However, pesticide residue testing for food safety by the department receives funding from the General Revenue Fund as result of budgetary changes during the 2016 legislative session.

The bill eliminates the supplemental fee required each year for certain brands of pesticide delivered, sold, or transported in the state.

The Revenue Estimating Conference (REC) estimated the provisions of the bill related to the agricultural restricted license plate and the pesticide fee will have a negative fiscal impact on state funds. The REC has not estimated the fiscal impact related to the forestry restricted license plate. See the FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT for discussion.

The bill has an effective date of July 1, 2017.

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

STORAGE NAME: h1231d.COM

DATE: 4/20/2017

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Agricultural and Forestry Restricted License Plates

Current Situation

Florida law imposes annual license taxes and one-time registration fees for the operation of motor vehicles, mopeds, motorized bicycles, tri-vehicles, trailers, and mobile homes.¹ The amount of the fee depends on the type and size of the vehicle. For example, a truck tractor or heavy truck with a gross vehicle weight less than 44,000 pounds is required to pay a license tax up to \$405 on an annual basis.² A truck tractor or heavy truck with a gross vehicle weight of 44,000 pounds or more will pay, at a minimum, \$773 in license taxes each year.³

Current law provides a restricted license plate for an eligible truck tractor or heavy truck, not operated as a for-hire vehicle, which is engaged exclusively in transporting raw, unprocessed, and non-manufactured agricultural or horticultural products, within a 150 mile radius of its home address.⁴ The annual license tax for a vehicle that acquires this restricted license plate is a reduced amount compared to a vehicle with a comparable weight that does not engage in such transportation activities. The law sets forth the following fees for the restricted license plate:

- \$87.75 flat, if the vehicle's declared gross vehicle weight is less than 44,000 pounds.
- \$324 flat, if the vehicle's declared gross vehicle weight is 44,000 pounds or more and such vehicle only transports from the point of production to:
 - The point of primary manufacture;
 - The point of assembling the same; or
 - A shipping point by rail, water or motor transportation company.⁵

In this context "not-for-hire" means that the owner of the motor vehicle must also be the owner of the raw unprocessed, and non-manufactured agricultural or horticultural product, or the user of farm implements and fertilizer being delivered.⁶

Current law also provides a restricted license plate for a truck tractor that is used within 150 miles of its home address for hauling forestry products, or used primarily for hauling forestry products and equipment used by the owner of the truck tractor.⁷ The fee for the plate is \$324 flat.⁸

Proposed Changes

The bill revises the eligibility requirement for the agricultural and forestry restricted license plates by removing the 150 mile radius of the home address restriction, and instead allows these vehicles that operate within the state of Florida, to be eligible for the restricted license plates.

¹ s. 320.08, F.S.

² s. 320.08(4)(h), F.S.

³ s. 320.08(4)(i), F.S.

⁴ s. 320.08(4)(n), F.S.

⁵ *Id.*

⁶ *Id.*

⁷ s. 320.08(4)(m), F.S.

⁸ *Id.*

Pesticide Registration

Current Situation

Effective January 1, 2009, each brand of pesticide⁹ distributed, sold, or offered for sale, except as otherwise provided, within the state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state, must be registered with the Department of Agriculture and Consumer Services (department) and is subject to a biennial registration fee.¹⁰ The department assesses each pesticide registration beginning in an odd-numbered year a fee of \$700 per brand of pesticide, and a fee of \$200 for each special local need label and experimental use permit.¹¹ The registration expires on December 31 of the following year.¹² The department assesses each pesticide registration beginning in an even-numbered year a fee of \$350 per brand of pesticide, and fee of \$100 for each special local need label and experimental use permit.¹³ That registration expires on December 31 of that year.¹⁴

In 2009, the Legislature defrayed the expense of the Chemical Residue Laboratory by creating a supplemental biennial registration fee (supplemental fee) for each registered brand of pesticide that contains an active ingredient for which the United States Environmental Protection Agency (EPA) has established a food tolerance limit in 40 C.F.R. part 180.¹⁵ The law requires the department to biennially publish by rule a list of the pesticide active ingredients for which a brand of pesticide is subject to the supplemental fee.¹⁶ The department assesses each registration beginning in an odd-numbered year a supplemental registration fee of \$630 per brand of pesticide that is subject to the supplemental fee,¹⁷ and assesses each registration beginning in an even-numbered year a supplemental registration fee of \$315 per brand of pesticide that is subject to the supplemental fee.¹⁸

The revenue from these two fees, less those costs determined by the department to be nonrecurring or one-time costs, must be deferred over the two year registration period, deposited in the General Inspection Trust Fund, and used by the department to carry out the provisions of the Florida Pesticide Law.¹⁹ Revenues collected from the supplemental fee may also be used by the department to test pesticides for food safety.²⁰

The Bureau of Chemical Residue Laboratories within the Division of Food Safety is responsible for the chemical analysis of poisonous or deleterious chemical residues remaining in or on human food

⁹ s. 487.021(49), F.S., defines the term “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 term does not include any article that is a “new animal drug” within the meaning of s. 201(w) of the Federal Food, Drug, and Cosmetic Act, has been determined by the Secretary of the US Department of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article; or is an animal feed within the meaning of s. 201(x) of the Federal Food, Drug, and Cosmetic Act.

¹⁰ s. 487.041(1), F.S.

¹¹ s. 487.041(1)(c), F.S.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ s. 32, ch. 2009-66, Laws of Fla.

¹⁶ s. 487.041(1)(d)1., F.S.

¹⁷ s. 487.041(1)(d)2., F.S.

¹⁸ *Id.*

¹⁹ s. 487.041(1)(e), F.S.

²⁰ *Id.*

produced or marketed in Florida.²¹ For food safety purposes, the Chemical Residue Laboratory uses the laboratory for the regulatory enforcement of federal pesticide and antibiotic residue tolerances and guidelines adopted by the state for raw agricultural produce.²² The department operates the Chemical Residue Laboratory in Tallahassee.²³ This is the only state laboratory in Florida dedicated to chemical residue analysis in foods.²⁴

Proposed Changes

The bill eliminates the supplemental fee for each registered brand of pesticide that contains an active ingredient for which the EPA has established a food tolerance limit in 40 C.F.R. part 180 by repealing paragraph 487.041(1)(d), F.S., and removing references to the supplemental fee throughout the section.

Effective Date

The bill has an effective date of July 1, 2017.

B. SECTION DIRECTORY:

Section 1 Amends s. 320.08, F.S., related to license taxes.

Section 2 Amends s. 487.041, F.S., related to pesticide registration.

Section 3 Provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference (REC) estimated the following fiscal impacts from the provisions of the bill:

- The provisions related to the agricultural restricted license plate have a negative insignificant fiscal impact;²⁵ and
- The provisions related to the pesticide fee have a negative recurring impact of \$1.7 million on the General Inspection Trust Fund and a negative recurring impact of \$0.2 million on the General Revenue Fund.²⁶

The REC has not estimated the fiscal impacts from the provision of the bill related to the forestry restricted license plate.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

²¹ Department of Agriculture and Consumer Services, *Bureau of Chemical Residue Laboratory*, <http://www.freshfromflorida.com/Divisions-Offices/Food-Safety/Bureaus-and-Sections/Bureau-of-Chemical-Residue-Laboratory> (last visited February 21, 2017).

²² *Id.*

²³ *Id.*

²⁴ Department of Agriculture and Consumer Services, Agency Analysis of 2016 House Bill 4035, p. 1 (February 21, 2017).

²⁵ Revenue Estimating Conference Impact Conference, Revenue Impact Results of 2017 CS/HB 1231, p. 408 (Mar. 24, 2017).

²⁶ Revenue Estimating Conference Impact Conference, Revenue Impact Results of 2017 CS/HB 1231, p. 405 (Mar. 24, 2017).

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Expanding the distance that the agricultural and forestry restricted license plates are authorized to travel may reduce the costs associated with shipping agricultural and forestry products outside of the 150 mile radius.

According to the Department Agriculture and Consumer Services, removal of the supplemental pesticide fee will produce an average recurring savings of \$1,919,337.84 affecting 1,478 pesticide registrants in the private sector.

D. FISCAL COMMENTS:

None.

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 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 state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 14, 2017, the Agriculture & Property Rights Subcommittee adopted four amendments to HB 1231 and reported the bill favorably as a committee substitute. The amendments:

- Removed the section of the bill that redefined the term “agricultural purposes”, for qualifying for a greenbelt classification;
- Redefined the term “farm product”, in the Right to Farm Act by removing “animal or insect useful to humans” and including livestock, poultry, aquatic plants and animals cultivated using aquaculture, and bees in the definition;
- Revised the maximum sales price of certain farm trailers exempt from the sales and use tax, and exempted certain animal health products and agricultural items from sales and use tax; and

- Authorized the use of specified orange paint marks on trees or posts, to indicate “posted lands” where trespassing would be prohibited; requiring “No Trespassing” signs to also be affixed at all places where entry to the property is normally expected or known to occur.

On April 5, 2017, the Ways & Means Committee adopted a proposed committee substitute (PCS) to CS/HB 1231 and reported the bill favorably as a committee substitute. The PCS removed:

- The provision that redefined “farm product”, in the Right to Farm Act by removing “animal or insect useful to humans” and including livestock, poultry, aquatic plants and animals cultivated using aquaculture, and bees in the definition;
- The provision that exempted certain animal health products used to treat livestock, poultry, or aquaculture; certain fencing materials; and compressed or liquefied oxygen used in aquaculture production, from the state sales and use tax;
- The provision that increased from \$20,000 to \$25,000 the portion of the sales price that tax may not be imposed for certain farm trailers purchased by a farmer; and
- The provision that authorized the use of specified orange paint markings on trees or posts, to indicate “posted lands” where trespassing would be prohibited.

On April 19, 2017, the Commerce Committee adopted one amendment to CS/CS/HB 1231 and reported the bill favorably as a committee substitute. The amendment removed the 150 mile distance restriction for a truck tractor that hauls forestry products, or forestry products and associated equipment, to be eligible for a restricted license plate.

This analysis is drafted to the CS as reported favorably by the Commerce Committee.