

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 1071 Department of Agriculture and Consumer Services

**SPONSOR(S):** Infrastructure Strategies Committee, Agriculture & Natural Resources Appropriations Subcommittee, Alvarez and others

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/CS/SB 1084

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	9 Y, 5 N	Thompson	Anstead
2) Agriculture & Natural Resources Appropriations Subcommittee	9 Y, 3 N, As CS	Byrd	Pigott
3) Infrastructure Strategies Committee	13 Y, 10 N, As CS	Mamontoff	Harrington

### SUMMARY ANALYSIS

The bill contains modifications to several agricultural, consumer services, and licensure activities under the jurisdiction of the Department of Agriculture and Consumer Services (DACS), as follows:

- Preempts the regulation of electric vehicle charging stations to the state.
- Allows pest control certificateholders flexibility in the types of chemicals and equipment they can use.
- Reduces continuing education requirements for certain pest control certificateholders.
- Requires certain pest control certificateholders to provide written documentation to the property owner after each inspection or treatment for the presence or absence of wood-destroying organisms.
- Prohibits certain pest control certificates from operating past the expiration date.
- Makes it a violation, and authorizes DACS to take administrative action, for providing false information or cheating on pest control or pesticide licensure examinations.
- Allows a Class "G" statewide firearm licensee to qualify for up to two calibers of firearms in one 4-hour firearm requalification class.
- Allows DACS to appoint tax collectors to accept private security, private investigative, and recovery services licenses, and to collect certain fees and provide certain services for concealed weapon or firearm licenses.
- Revises the information that charitable organizations are required to provide to DACS.
- Prohibits and creates criminal and civil penalties for the manufacture for sale, sale, or distribution of cultivated meat in the state.
- Prohibits movers from placing a shipper's goods in a self-service storage unit owned by anyone other than the mover.
- Revises the information that must be provided to DACS on a motor vehicle repair shop registration application, requires the registration fee to be calculated for each location, and raises the threshold value of repair work which requires such shops to provide a customer with a written repair estimate.
- Increases the authorized amount that DACS may spend to repair or build a structure.
- Criminalizes the destroying, harvesting, or selling of saw palmetto berries.
- Includes poultry in the definition of "livestock" as governed by the DACS Division of Animal Industry.
- Reduces the number of trespassing signs required for lands classified as commercial agricultural property, and increases criminal penalties for trespassing on such property with intent to commit a crime.

The bill may have an indeterminate fiscal impact on state and local government and the private sector.

Unless otherwise provided, the effective date of the bill is July 1, 2024.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

#### **Electric Vehicle Charging Stations**

Consumers and fleets considering electric vehicles (EVs), including all-electric vehicles and plug-in hybrid electric vehicles (PHEVs), need access to charging equipment. For most drivers, this starts with charging at home or at fleet facilities. Charging stations at workplaces, public destinations, and along highways offer more flexible charging opportunities at commonly visited locations.<sup>1</sup>

EV charging equipment is classified based on the following rates of charge:<sup>2</sup>

- Alternating Current (AC) Level 1 equipment provides charging through a common 120 volt AC outlet. Most, if not all, EVs come with a portable Level 1 cord, so no additional charging equipment is required. Level 1 chargers can take 40-50 hours to charge an all-electric vehicle from empty and 5-6 hours to charge a PHEV from empty.<sup>3</sup>
- AC Level 2 equipment offers charging through 240 volt (in residential applications) or 208 volt (in commercial applications) electrical service. As of 2022, 80 percent of public EV charging ports in the country were Level 2.<sup>4</sup> Level 2 chargers can take 4-10 hours to charge an all-electric vehicle from empty and 1-2 hours to charge a PHEV from empty.<sup>5</sup>
- Direct-current (DC) fast charging equipment enables rapid charging along heavy traffic corridors at installed stations. As of 2022, more than 20 percent of public EV charging ports in the country were DC fast chargers.<sup>6</sup> DC fast charging equipment can charge an all-electric vehicle to 80 percent in 20 minutes to 1 hour.<sup>7</sup>

Charging times vary depending on the depletion level of the battery, how much energy the battery holds, the type of battery, temperature, and the type of supply equipment.

#### Florida's EV Law

According to the U.S. Department of Energy, 44 of Florida's 67 counties<sup>8</sup> have 3,230 EV public charging stations offering a total of 8,981 charging ports. AC Level 2 charging ports comprise 6,793 of these ports, and DC fast charging ports comprise 2,164 of these ports.<sup>9</sup>

Florida law governing EV charging stations (EV law) requires the Department of Agriculture and Consumer Services (DACCS) to adopt rules to provide definitions, methods of sale, labeling requirements, and price-posting requirements for EV charging stations to provide consistency for consumers and the industry.<sup>10</sup>

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<sup>1</sup> U.S. Dept. of Energy (DOE), Alternative Fuels Data Center, *Developing Infrastructure to Charge Electric Vehicles*, [https://afdc.energy.gov/fuels/electricity\\_infrastructure.html](https://afdc.energy.gov/fuels/electricity_infrastructure.html) (last visited Jan. 18, 2024).

<sup>2</sup> U.S. Environmental Protection Agency (EPA), *Plug-in Electric Vehicle Charging*, <https://www.epa.gov/greenvehicles/plug-electric-vehicle-charging-basics> (last visited Jan. 18, 2024).

<sup>3</sup> U.S. Dept. of Transportation (USDOT), *Electric Vehicle Charging Speeds*, <https://www.transportation.gov/rural/ev/toolkit/ev-basics/charging-speeds> (last visited Jan. 18, 2024).

<sup>4</sup> DOE, *supra* note 1.

<sup>5</sup> DOT, *supra* note 3.

<sup>6</sup> DOE, *supra* note 1.

<sup>7</sup> DOT, *supra* note 3.

<sup>8</sup> Florida Department of Agriculture and Consumer Services (FDACS), Transportation, *Alternative Fueling Stations and Electric Vehicle Charging Stations*, <https://www.fdacs.gov/Business-Services/Energy/Florida-Energy-Clearinghouse/Transportation> (last visited Jan. 18, 2024).

<sup>9</sup> U.S. Dept. of Energy, Alternative Fuels Data Center (AFDC), *Alternative Fueling Station Counts by State*, <https://afdc.energy.gov/stations/states> (last visited Jan. 18, 2024).

<sup>10</sup> S. 366.94, F.S.

The EV law clarifies that the provision of EV charging to the public by a nonutility is not considered the retail sale of electricity for the purposes of chapter 366, F.S., which governs public utilities. The rates, terms, and conditions of EV charging services by a nonutility are not subject to regulation under that chapter.<sup>11</sup> As such, the process for the installation and provision of EV charging by a non-utility is not subject to regulation by the Public Service Commission.<sup>12</sup>

The EV law does not affect the ability of individuals, businesses, or governmental entities to acquire, install, or use an EV charger for their own vehicles.<sup>13</sup>

The EV law makes it unlawful for a person to stop, stand, or park a vehicle that is not capable of using an electrical recharging station within any parking space specifically designated for charging an EV. Violations are a noncriminal traffic infraction, punishable as provided in s. 316.008(4) or s. 318.18, F.S.<sup>14</sup>

In addition, the Florida Department of Transportation (FDOT) is required to coordinate, develop and recommend a Master Plan for the development of EV charging station infrastructure along the State Highway System.<sup>15</sup> FDOT's EV Master Plan (EVMP) delivers a comprehensive course of action to efficiently and effectively provide EV charging infrastructure; and serves as a guide for future legislative, agency-level and public engagement efforts.<sup>16</sup>

### Preemption

A local government enactment may be inconsistent with state law if:

- The local enactment conflicts with state statutes; or
- The Legislature has preempted the particular area of law that is the subject of the enactment.

Such state preemption precludes a local government from exercising authority in the preempted area.<sup>17</sup>

Florida case law recognizes two types of state preemption: express and implied. Express preemption requires an express legislative statement of intent to preempt a specific area of law; it cannot be implied or inferred.<sup>18</sup> Implied preemption, on the other hand, exists where the legislative scheme is so pervasive as to evidence an intent to preempt the particular area, and where strong public policy reasons exist for finding such an area to be preempted by the legislature.<sup>19</sup> Courts determining the validity of local government ordinances enacted in the face of state preemption, whether express or implied, have found such ordinances to be null and void.<sup>20</sup>

### **Pest Control**

#### Licensure

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<sup>11</sup> *Id.*

<sup>12</sup> Florida Department of Transportation (FDOT), *Florida's Electric Vehicle Infrastructure Deployment Plan*, August 2023, [https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/emergingtechnologies/evprogram/2023\\_florida's-evidp\\_update\\_092923.pdf?sfvrsn=1e4aee0\\_1](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/emergingtechnologies/evprogram/2023_florida's-evidp_update_092923.pdf?sfvrsn=1e4aee0_1) (last visited Feb. 16, 2024).

<sup>13</sup> S. 366.94, F.S.

<sup>14</sup> *Id.*

<sup>15</sup> S. 339.287, F.S.

<sup>16</sup> FDOT, *EV Infrastructure Master Plan*, July 2021, [https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/emergingtechnologies/evprogram/fdotevmp.pdf?sfvrsn=b5888a\\_2](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/emergingtechnologies/evprogram/fdotevmp.pdf?sfvrsn=b5888a_2) (last visited Feb. 16, 2024).

<sup>17</sup> Wolf, *The Effectiveness of Home Rule: A Preemptions and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009), <https://www.floridabar.org/the-florida-bar-journal/the-effectiveness-of-home-rule-a-preemption-and-conflict-analysis/> (last visited March 20, 2023).

<sup>18</sup> See *City of Hollywood v. Mulligan*, 934 So. 2d 1238, 1243 (Fla. 2006); *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So. 2d 1011, 1018 (Fla. 2d DCA 2005), approved in *Phantom of Brevard, Inc. v. Brevard County*, 3 So. 3d 309 (Fla. 2008).

<sup>19</sup> *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So. 3d 880 (Fla. 2010).

<sup>20</sup> See, e.g., *Nat'l Rifle Ass'n of Am., Inc. v. City of S. Miami*, 812 So. 2d 504 (Fla. 3d DCA 2002).

Chapter 482, F.S., the “Structural Pest Control Act,” (Pest Control Act) is the chapter of Florida law that authorizes DACS to regulate pest control professionals. The Pest Control Act defines the term “pest control” to include:<sup>21</sup>

- The use of any method or device or the application of any substance to prevent, destroy, repel, mitigate, curb, control, or eradicate any pest in, on, or under a structure, lawn, or ornamental;
- The identification of or inspection for infestations or infections in, on, or under a structure, lawn, or ornamental;
- The use of any pesticide, economic poison, or mechanical device for preventing, controlling, eradicating, identifying, inspecting for, mitigating, diminishing, or curtailing insects, vermin, rodents, pest birds, bats, or other pests in, on, or under a structure, lawn, or ornamental;
- All phases of fumigation, including:
  - The treatment of products by vault fumigation; and
  - The fumigation of boxcars, trucks, ships, airplanes, docks, warehouses, and common carriers; and
- The advertisement of, the solicitation of, or the acceptance of remuneration for any work described in this subsection, but does not include the solicitation of a bid from a licensee to be incorporated in an overall bid by an unlicensed primary contractor to supply services to another.

The Pest Control Act requires, in part, that each pest control business:

- Be licensed by DACS;<sup>22</sup>
- Carry the required insurance coverage (\$250,000 per person and \$500,000 per occurrence for bodily injury and \$250,000 per occurrence and \$500,000 in the aggregate for property damage, or a combined single limit coverage of \$500,000 in the aggregate);<sup>23</sup> and
- Pay the following licensing fees, established by DACS:<sup>24</sup>
  - Initial fee of \$300.
  - Renewal fee of \$75.

The Pest Control Act prohibits DACS from issuing or renewing a license to engage in the pest control business unless the applicant’s pest control activities are under a certified operator or operators in charge who are certified in the categories<sup>25</sup> of the licensee.<sup>26</sup>

Each employee who performs pest control for a licensee must have an identification card.<sup>27</sup>

### Pest Control Operator’s Certificate

The Pest Control Act requires DACS to issue a pest control operator’s certificate to each individual who qualifies under the act. Before issuance of an original certificate, an individual must complete an application for examination, pay the examination fee, and pass the examination. Before engaging in pest control work, each certified operator must be certified.<sup>28</sup>

An individual who is issued a pest control operator’s certificate is required to apply to DACS for certificate renewal annually, on or before an anniversary date set by DACS. Following the renewal date, a certificateholder has a grace period of up to 30 calendar days before a late renewal charge of \$50 is assessed in addition to the renewal fee.<sup>29</sup>

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<sup>21</sup> S. 482.021(22), F.S.

<sup>22</sup> S. 482.071(1) and (2), F.S.

<sup>23</sup> S. 482.071(4), F.S.

<sup>24</sup> S. 482.071(2)(b), F.S.

<sup>25</sup> “Category” means a distinct branch or phase of pest control for which a pest control operator’s certificate may be issued such as: fumigation, general household pest control; termites and other wood-destroying organisms pest control, lawn and ornamental pest control, and such a combination or division of such branches of pest control as DACS may by rule establish. S. 482.021(3), F.S.

<sup>26</sup> S. 482.071(2)(e), F.S.

<sup>27</sup> See S. 482.091, F.S.

<sup>28</sup> S. 482.111(1), F.S.

<sup>29</sup> S. 482.111(3), F.S.

If not timely renewed, a certificate automatically expires 180 calendar days after the anniversary renewal date set by DACS. Subsequent to such expiration, a certificate may be reissued only upon successful reexamination and payment of the required examination and issuance fees.<sup>30</sup>

Prior to the expiration date of a certificate, the certificateholder is required to:<sup>31</sup>

- Complete 2 hours of approved continuing education on legislation, safety, pesticide labeling, and integrated pest management and 2 hours of approved continuing education in each category of her or his certificate; or
- Pass an examination given by DACS.

### Special Identification Card for Fumigation

The Pest Control Act requires individuals who perform fumigation to be a special identification cardholder, unless the individual is already a certified operator in the category of fumigation. When performing fumigation, the Pest Control Act authorizes a special identification cardholder to act only under the direction and supervision of the certified operator in charge.<sup>32</sup>

An individual that is issued a special identification card for fumigation is required to apply to DACS annually for renewal on or before an anniversary date set by DACS. The annual renewal fee for a special identification is \$100.<sup>33</sup> After a grace period of up to 30 calendar days following the renewal date, DACS is required to assess a late renewal charge of \$25, which must be paid in addition to the renewal fee.

If not timely renewed, a special identification card automatically expires 180 calendar days after the anniversary renewal date.<sup>34</sup> Subsequent to such expiration, a special identification card may be reissued only upon successful reexamination and payment of examination and issuance fees.<sup>35</sup>

Prior to the expiration date of a special identification card, the cardholder is required to:<sup>36</sup>

- Complete 2 hours of approved continuing education on legislation, safety, and pesticide labeling and 2 hours of approved continuing education in the fumigation category; or
- Pass an examination in fumigation given by DACS.

### Limited Certification for Governmental Pesticide Applicators or Private Applicators

The Pest Control Act requires DACS to establish limited certification categories for:<sup>37</sup>

- Persons who apply pesticides only as governmental employees.
- Persons who apply pesticides only to their own private property, and employees who apply pesticides to private property<sup>38</sup> owned by their employers.

The Pest Control Act requires a person seeking limited certification to pass an examination given or approved by DACS.<sup>39</sup> Each application for examination must be accompanied by an examination fee of \$150.<sup>40</sup> A recertification fee of \$25 is due every 4 years.<sup>41</sup>

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<sup>30</sup> S. 482.111(4), F.S.

<sup>31</sup> S. 482.111(10), F.S.

<sup>32</sup> S. 482.151(1), F.S.

<sup>33</sup> S. 482.151(6), F.S.; FDACS, *What are pest control licensing fees?*, <https://www.fdacs.gov/Business-Services/Pest-Control/Pest-Control-FAQ/What-are-the-pest-control-licensing-fees> (last visited Feb. 18, 2024).

<sup>34</sup> S. 482.151(7), F.S.

<sup>35</sup> *Id.*

<sup>36</sup> S. 482.151(7), F.S.

<sup>37</sup> S. 482.155(1)(a), F.S.

<sup>38</sup> This includes properties such as public buildings, schools, hospitals, nursing homes, grocery stores, restaurants, apartments, and common areas of condominiums and any other private properties where the public may be exposed to pesticide applications.

<sup>39</sup> S. 482.155(1)(b), F.S.

<sup>40</sup> FDACS, *What are pest control licensing fees?*, <https://www.fdacs.gov/Business-Services/Pest-Control/Pest-Control-FAQ/What-are-the-pest-control-licensing-fees> (last visited Feb. 18, 2024).

<sup>41</sup> *Id.*

Prior to the expiration date of a limited certification, the certificateholder is required to apply for recertification to be accompanied by proof of having completed 4 classroom hours of acceptable continuing education.<sup>42</sup>

### Limited Certification for Commercial Landscape Maintenance Personnel

The Pest Control Act requires DACS to establish a limited certification category for individual commercial landscape maintenance personnel to authorize them to:<sup>43</sup>

- Apply herbicides for controlling weeds in plant beds; and
- Perform integrated pest management on ornamental plants using insecticides and fungicides having the signal word “caution” but not having the word “warning” or “danger” on the label.

Regarding authorized equipment that may be used under this certification, the Pest Control Act:<sup>44</sup>

- Only allows:
  - Portable, handheld 3-gallon compressed air sprayers; or
  - Backpack sprayers having no more than a 5-gallon capacity.
- Does not include power equipment.

The Pest Control Act requires a person seeking such limited certification to pass an examination given by DACS. Each application for examination must be accompanied by an examination fee of \$150.<sup>45</sup>

The Pest Control Act specifies that prior to DACS issuing such a limited certification, each person applying is required to furnish proof of having a certificate of insurance which states that the employer meets the requirements for minimum financial responsibility for bodily injury and property damage under the act.<sup>46</sup>

In order to be eligible to take the examination, applicants are required to:<sup>47</sup>

- Complete 6 classroom hours of plant bed and ornamental continuing education training approved by DACS; and
- Provide sufficient proof, according to criteria established by DACS rule.

An application for recertification must be made annually, and applicants are required to:<sup>48</sup>

- Pay a recertification fee of \$75.<sup>49</sup>
- Provide proof of having completed 4 classroom hours of acceptable continuing education.
- Provide the same proof of having a certificate of insurance as is required for issuance of this certification.

Following the renewal date, an individual has a grace period of up to 30 calendar days before a late renewal charge of \$50 will be assessed in addition to the renewal fee. A certificate automatically expires 180 calendar days after the recertification date. Subsequent to such expiration, a certificate may be issued only upon successful reexamination and upon payment of the required examination fees.<sup>50</sup>

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<sup>42</sup> S. 482.155(1)(b), F.S.

<sup>43</sup> S. 482.156(1), F.S.

<sup>44</sup> *Id.*

<sup>45</sup> S. 482.156(2)(a), F.S., FDACS, *What are pest control licensing fees?*, <https://www.fdacs.gov/Business-Services/Pest-Control/Pest-Control-FAQ/What-are-the-pest-control-licensing-fees> (last visited Feb. 18, 2024).

<sup>46</sup> *Id.*

<sup>47</sup> S. 482.156(2)(b), F.S.

<sup>48</sup> S. 482.156(3), F.S.

<sup>49</sup> FDACS, *What are pest control licensing fees?*, <https://www.fdacs.gov/Business-Services/Pest-Control/Pest-Control-FAQ/What-are-the-pest-control-licensing-fees> (last visited Feb. 18, 2024).

<sup>50</sup> *Id.*

The Pest Control Act requires certified persons to maintain records available for review upon request by DACS that document the following:<sup>51</sup>

- Pests and areas treated; and
- Methods and materials applied for control of such pests.

#### Limited Certification for Commercial Wildlife Management Personnel

The Pest Control Act requires DACS to establish a limited certificate that authorizes a person who engages in the commercial trapping of wildlife to use nonchemical methods, including traps, mechanical or electronic devices, and exclusionary techniques to control commensal rodents.<sup>52</sup>

An application for recertification must be made annually, and the applicant is required to:<sup>53</sup>

- Pay a recertification fee of \$75.<sup>54</sup>
- Provide proof of completion of the required 4 classroom hours of acceptable continuing education and the required proof of insurance.

Following the renewal date, an individual has a grace period of up to 30 calendar days before a late renewal charge of \$50 will be assessed in addition to the renewal fee. A certificate automatically expires 180 calendar days after the recertification date. Subsequent to such expiration, a certificate may be issued only upon successful reexamination and upon payment of the examination fee and late fee.<sup>55</sup>

#### Violations for False Statements on Applications and Cheating on Exams

The Pest Control Act authorizes DACS to issue a written warning, impose a fine, or deny licensure of a licensee, certified operator, limited certificateholder, identification cardholder, or special identification cardholder or any other person, or suspend, revoke, or deny such issuance or renewals, in accordance with the Administrative Procedure Act<sup>56</sup> upon any of the following grounds:<sup>57</sup>

- A violation of any provision of or DACS rule adopted pursuant to the Pest Control Act.
- A conviction in any court within the state of a violation of the Pest Control Act.
- Habitual intemperance or addiction to narcotics.
- A conviction in any court in any state or in any federal court of a felony, unless civil rights have been restored.
- Knowingly:
  - Making false or fraudulent claims with respect to pest control;
  - Misrepresenting the effects of materials or methods used in pest control; or
  - Failing to use materials or methods suitable for the pest control undertaken.
- Performing pest control in a negligent manner.
- Failure to give to DACS, or its authorized representative, true information upon request regarding methods and materials used, work performed, or other information essential to the administration of the Pest Control Act.
- Fraudulent or misleading advertising relative to pest control or advertising in an unauthorized category of pest control.
- Failure to pay an administrative fine.
- Impersonation of a DACS employee.

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<sup>51</sup> S. 482.156(5), F.S.

<sup>52</sup> S. 482.157(1), F.S.

<sup>53</sup> S. 482.157(3), F.S.

<sup>54</sup> FDACS, *What are pest control licensing fees?*, <https://www.fdacs.gov/Business-Services/Pest-Control/Pest-Control-FAQ/What-are-the-pest-control-licensing-fees> (last visited Feb. 18, 2024).

<sup>55</sup> S. 482.157(3), F.S.

<sup>56</sup> Ch. 120, F.S.

<sup>57</sup> S. 482.161(1), F.S.

The Pest Control Act makes it unlawful to solicit, practice, perform, or advertise in pest control except as provided in the act. Such violations of the act or DACS rule are a second degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083, F.S.<sup>58</sup>

### Wood-destroying Organism Preventive or Control Contracts

Inspection for wood-destroying organisms is regulated as a pest control activity under the Pest Control Act.<sup>59</sup> When an inspection for wood-destroying organisms is made by a licensee for purposes of a real estate transaction and either a fee is charged for the inspection or a written report is requested by the customer, the act requires a wood-destroying organism inspection report to be provided by the licensee or its representative. The act also requires a copy of the inspection report to be retained by the licensee for at least 3 years.<sup>60</sup>

The act includes requirements regarding what the report must include and a requirement that a notice of the inspection be posted in the access area to the attic or crawl area or other accessible area of the structure inspected.<sup>61</sup> If treatment is made to the structure at the time of the inspection, the report must include information on the name of each wood-destroying organism for which treatment was provided at the time of the inspection, the name of the pesticide used, and the conditions and terms associated with that treatment.<sup>62</sup>

Licensees who perform wood-destroying organism inspections for real estate transactions are required to have a minimum of \$50,000 in insurance coverage (or a bond) for professional liability for errors and omissions, or demonstrate an equity or net worth of no less than \$100,000.<sup>63</sup>

Regarding wood-destroying organisms preventive or control contracts, the Pest Control Act provides that if periodic reinspections or retreatments are specified in such contracts, the licensee is required to furnish the property owner or the property owner's authorized agent, after each such reinspection or retreatment, a signed report indicating:<sup>64</sup>

- The presence or absence of wood-destroying organisms covered by the contract;
- Whether retreatment was made; and
- The common or brand name of the pesticide used.

The Pest Control Act prohibits a person from performing periodic reinspections or retreatments unless she or he has an identification card issued under s. 482.091(9), F.S.

## **Florida Pesticide Law**

### Violations for False Statements on Applications and Cheating on Exams

Chapter 487, part I, the "Florida Pesticide Law" (Pesticide Law)<sup>65</sup> regulates the distribution, sale, and use of pesticides, except as provided in chapters 388, F.S., relating to mosquito control, and 482, F.S., the Pest Control Act, and protects people and the environment from the adverse effects of pesticides.<sup>66</sup> The Pesticide Law is administered by DACS.<sup>67</sup>

Under the Pesticide Law, every pesticide distributed, sold, or offered for sale within the state, or transported in intrastate commerce must be registered with DACS and renewed annually.<sup>68</sup>

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<sup>58</sup> S. 482.191, F.S.

<sup>59</sup> See S. 482.226, F.S.

<sup>60</sup> S. 482.226(1), F.S.

<sup>61</sup> S. 482.226(4), F.S.

<sup>62</sup> S. 482.226(2)(b), F.S.

<sup>63</sup> S. 482.226(6), F.S.

<sup>64</sup> S. 482.226(3), F.S.

<sup>65</sup> Chapter 487, part I, F.S.

<sup>66</sup> S. 487.12, F.S.

<sup>67</sup> S. 487.011, F.S.

<sup>68</sup> S. 487.041, F.S.



The Pesticide Law makes it unlawful for any person to:<sup>69</sup>

- Make a false or fraudulent claim through any medium, misrepresenting the effect of materials or methods used;
- Make a pesticide recommendation or application not in accordance with the label, except as provided in law, not in accordance with recommendations of the United States Environmental Protection Agency, or not in accordance with the specifications of a special local need registration;
- Operate faulty or unsafe equipment;
- Operate in a faulty, careless, or negligent manner;
- Apply any pesticide directly to, or in any manner cause any pesticide to drift onto, any person or area not intended to receive the pesticide;
- Fail to disclose to an agricultural crop grower, prior to the time pesticides are applied to a crop, full information regarding the possible harmful effects to human beings or animals and the earliest safe time for workers or animals to reenter the treated field;
- Refuse or, after notice, neglect to comply with the provisions of this part, the rules adopted under this part, or any lawful order of DACS;
- Refuse or neglect to keep and maintain the records or reports required;
- Make false or fraudulent records, invoices, or reports;
- Use fraud or misrepresentation in making an application for licensure;
- Refuse or neglect to comply with any limitations or restrictions on or in a duly issued license;
- Aid, abet, combine, or conspire with a licensed or unlicensed person to evade the provisions of the Pesticide Law, or allow a license to be used by an unlicensed person;
- Make false or misleading statements during or after an inspection concerning any infestation or infection of pests found on land;
- Make false or misleading statements, or fail to report, pursuant to the Pesticide Law, any suspected or known damage to property or illness or injury to persons caused by the application of pesticides;
- Impersonate any state, county, or city inspector or official;
- Fail to maintain a current liability insurance policy or surety bond;
- Fail to adequately train unlicensed applicators or mixer-loaders applying restricted-use pesticides under the direct supervision of a licensed applicator; or
- Fail to provide authorized representatives of DACS with required records or with free access for inspection and sampling of any pesticide, areas treated with or impacted by these materials, and equipment used in their application.

DACS is authorized to take the following actions regarding violations:<sup>70</sup>

- Deny an application for licensure.
- Revoke or suspend a license.
- Issue a warning letter.
- Place the licensee on probation and require the licensee to attend educational classes to demonstrate competency through a written or practical examination, or to work under the direct supervision of another licensee.
- Impose an administrative fee not to exceed \$10,000 for each violation.
- Bring an action to enjoin the violation or threatened violation of the Pesticide Law in the circuit court of the county in which the violation occurs or is about to occur.<sup>71</sup>

Violations of the Pesticide Law are a second degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083, F.S., and subsequent violations are a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083.<sup>72</sup>

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<sup>69</sup> S. 487.031(13), F.S.

<sup>70</sup> S. 487.175(1), F.S.

<sup>71</sup> S. 487.175(3), F.S.

<sup>72</sup> S. 487.175(2), F.S.

## Firearm Licensing

### Chapter 493 Licensees

The Division of Licensing (DOL) within DACS administers Florida's concealed weapon licensing program<sup>73</sup> and oversees Florida's private investigative, private security, and recovery services industries.<sup>74</sup> The DOL's regulatory oversight of those services includes licensing, enforcing compliance standards, and ensuring public protection from unethical business practices and unlicensed activity.<sup>75</sup>

Currently, the DOL offers 22 different types of private investigative, private security, and recovery services licenses and four different types of concealed weapon or firearm licenses. As of December 31, 2023, the DOL had issued a total of 186,842 private investigative, private security, and recovery services licenses and 2,514,687 concealed weapon permits, to qualified applicants. The following table provides a breakdown of the total number of each license type.<sup>76</sup>

License Type	License Title	Total
C	Private Investigators	6,926
CC	Private Investigator Interns	1,324
A	Private Investigative Agencies	2,637
AA	Private Investigative Agency Branch Offices	22
MA	Private Investigative Agency Managers	72
M	Private Investigative/Security Agency Managers	452
D	Security Officers	141,778
B	Security Agencies	2,130
BB	Security Agency Branch Offices	178
MB	Security Managers	1,505
AB	Security Agency/Private Investigative Agency Branch Offices	8
DS	Security Officer Schools	457
DI	Security Officer Instructors	1,777
G	Statewide Firearm Licenses	25,431
K	Firearms Instructors	682
E	Recovery Agents	767
EE	Recovery Agent Interns	351
R	Recovery Agencies	293
RR	Recovery Agency Branch Offices	33
MR	Recovery Agency Managers	4
RS	Recovery Agent Schools	6
RI	Recovery Agent Instructors	9
<b>Subtotal of Private Investigative, Private Security, and Recovery Services Licenses</b>		<b>186,842</b>
W	Concealed Weapon or Firearm	2,501,201
WJ	Concealed Weapon or Firearm/Circuit and County Judges	833
WR	Concealed Weapon or Firearm/Retired Law Enforcement and Correctional Officers	12,647
WS	Concealed Weapon or Firearm/Consular	6

<sup>73</sup> S. 790.06, F.S.

<sup>74</sup> Ch. 493, F.S.

<sup>75</sup> Office of Program Policy Analysis and Government Accountability, Government Program Summaries, *Department of Agriculture and Consumer Services Licensing*, <https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=4101> (last visited Jan. 19, 2024).

<sup>76</sup> FDACS, *Division of Licensing Statistical Reports*, <https://www.fdacs.gov/Divisions-Offices/Licensing/Statistical-Reports> (last visited Jan. 19, 2024).

	Security Official	
<b>Subtotal of Concealed Weapon Licenses</b>		<b>2,514,687</b>
<b>Total Number of Licenses</b>		<b>2,701,529</b>

A security officer is an individual who advertises for, or performs: bodyguard services, personal or property protection; theft and loss prevention; armored car staffing; or transportation of prisoners.<sup>77</sup> Law enforcement officers engaged in their official duties or off-duty security activities that have been approved by appropriate superiors are not considered security officers.<sup>78</sup> Additionally, unarmed security officers who are employed by, and perform their work entirely on the premises of, either their employer's business, a church or denominational organization, or a church cemetery are not required to be licensed as a security officer under ch. 493, F.S.<sup>79</sup>

A private investigator is an individual who investigates a person for the purpose of obtaining information with reference to the following specific matters:<sup>80</sup>

- Crimes or wrongdoings against the United States or any state or territory, when operating under express authority of a governmental official;
- The identity, habits, conduct, movement, and other characteristics of any society, person, or group of persons;
- The credibility of a witness or other person;
- The whereabouts of a missing person, owner of unclaimed or escheated property, or heirs to an estate;
- The location or recovery of lost or stolen property;
- The causes and origin of fires, libel, slander, losses, accidents, damage, or injuries to real or personal property; or
- Securing evidence to be used before an investigating committee or board, or in a civil or criminal trial.

### Class "G" Statewide Firearm License

A Class "G" license is a supplemental license that permits specific licensees to carry a firearm during the course of their licensed, employment-related activity. A Class "G" license is available only to individuals who currently hold one of the following licenses: private investigator (Class "C"), private investigator intern (Class "CC"), security officer (Class "D"), private investigative or security agency manager (Class "M"), private investigative agency manager (Class "MA"), or security agency manager (Class "MB").<sup>81</sup> The "Class G" license must be renewed every 2 years.

### Application and Training Requirements for Class "G" Licensees

An initial applicant for a Class "G" license must complete firearm training, which must include at least 28 hours of range and classroom training (range training must be 8 hours) that is administered by a Class "K" licensee.<sup>82</sup>

Class "G" licensees must annually complete 4 hours of firearms requalification training for each caliber of firearm that he or she carries in the course of his or her duties.<sup>83</sup>

A Class "G" licensee is subject to a biennial statewide firearm license fee of \$112, but there is no application fee.<sup>84</sup> The applicant for a Class "G" license must submit a fingerprint processing (\$42) and

<sup>77</sup> S. 493.6101(19), F.S.; *see also*, FDACS, *Private Security Licenses*, <https://www.fdacs.gov/Business-Services/Private-Security-Licenses> (last visited Jan. 19, 2024).

<sup>78</sup> S. 493.6102(1), F.S.

<sup>79</sup> S. 493.6102(4), (13), F.S.

<sup>80</sup> S. 493.6101(16), F.S. *See also*, FDACS, *Private Investigation* (Dec. 2017), <https://licensing.freshfromflorida.com/forms/P-01721.pdf> (last visited Jan. 19, 2024).

<sup>81</sup> S. 493.6115(2), F.S.

<sup>82</sup> S. 493.6105(5), F.S. *See also* R. 5N-1.132(1)(a), F.A.C.

<sup>83</sup> S. 493.6113(3)(b), F.S.

<sup>84</sup> R. 5N-1.116(2)(a)6. and (2)(c), F.A.C.

retention (\$10.75) fee, however—this fee is waived if the applicant has otherwise paid these fees for any other license under ch. 493, F.S., within the last 6 months.<sup>85</sup>

### Regulation of Class “G” Licensees

A Class “G” licensee may only carry two firearms when performing his or her licensed duties. Unless DACS grants specific approval otherwise, the types of weapons a Class “G” licensee may use are limited to the following:

- .38 caliber revolver;
- .380 caliber or .9 mm semiautomatic pistol;
- .357 caliber revolver used with .38 caliber ammunition;
- .40 caliber handgun; or
- .45 ACP handgun.<sup>86</sup>

If a Class “G” licensee discharges his or her firearm during the course of her or his duties, the licensee must file an incident report with DACS.<sup>87</sup>

Class “G” licensees are subject to penalties, ranging from a fine to the suspension or revocation of their license, for the following violations of administrative rule:<sup>88</sup>

- Conviction of, or adjudication of guilt withheld, on a crime directly related to the business for which the license is held;
- Improper exhibition of a firearm;
- Careless or improper handling of a firearm resulting in a discharge;
- Firing an unjustifiable warning shot while on duty;
- Impersonating a law enforcement officer or government employee; and
- Commission of an act of violence not in the lawful protection of one’s self or another.

### Concealed Weapon and Firearm License

Florida is a “shall issue”<sup>89</sup> state for applications for concealed weapon and firearm licenses.<sup>90</sup> DACS is required to review and either issue or deny a license within 90 days of receiving an application.<sup>91</sup>

DACS is required to issue a license, which expires after 7 years,<sup>92</sup> if an applicant:

- Is a citizen of the United States, permanent resident alien, or consular security official of a foreign government;
- Is 21 years of age or older;
- Does not suffer from a physical infirmity which prevents the safe handling of a weapon or firearm;
- Has not been convicted of a felony;
- Has not been found guilty of a controlled substances crime within the previous 3 years;
- Has not been committed for the abuse of a controlled substance;<sup>93</sup>
- Does not suffer from chronic and habitual use of alcohol or other substances to the extent that their normal faculties are impaired;<sup>94</sup>

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<sup>85</sup> R. 5N-1.116(3)(a), F.A.C.

<sup>86</sup> S. 493.6115(6), F.S. *See also*, FDACS, *Approved Firearms for Class “G” License Holders*, <https://www.fdacs.gov/Business-Services/Private-Investigation-Licenses/Approved-Firearms-for-Class-G-License-Holders> (last visited Jan. 19, 2024).

<sup>87</sup> S. 493.6115(9), F.S.

<sup>88</sup> R. 5N-1.113, F.S. *See also*, s. 493.6118(1), F.S.

<sup>89</sup> Generally, states issue a permit, or license, to carry a concealed weapon such as a firearm on either a “shall issue,” or “may issue” basis. The key difference is that shall issue states must issue the permit or license if the applicant meets the requirements; whereas, may issue states have much more discretion to deny an application even if the applicant meets the requirements under the law.

<sup>90</sup> S. 790.06(2), F.S.

<sup>91</sup> S. 790.06(6)(c), F.S.

<sup>92</sup> S. 790.06(1), F.S.

<sup>93</sup> An applicant granted relief of firearms disabilities pursuant to s. 790.065(2)(a)4.d., F.S., after having been adjudicated mentally defective or committed to a mental institution is deemed not to be committed for the abuse of a controlled substance.

- Desires to carry a concealed weapon or firearm for lawful self-defense;
- Demonstrates competency with a firearm;<sup>95</sup>
- Has not been adjudicated as an incapacitated person;
- Has not been committed to a mental institution;<sup>96</sup>
- Has not had an adjudication of guilt withheld or a suspended sentence on a felony unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been expunged;
- Has not had an adjudication of guilt withheld or an imposition of sentence suspended on a misdemeanor crime of domestic violence, unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been expunged;
- Has not been issued an injunction that is currently in force and effect that restrains that applicant from committing acts of domestic violence or acts of repeat violence; and
- Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.<sup>97</sup>

DACS is required to suspend a license or the processing of an application for a license if the licensee or applicant is arrested or formally charged with a crime that would disqualify such person from having a license until final disposition of the case.<sup>98</sup> DACS is also required to suspend a license or the processing of an application for a license if the licensee or applicant is issued an injunction that restrains the licensee or applicant from committing acts of domestic violence or acts of repeat violence.<sup>99</sup>

Once obtained, the licensee must carry the license with valid identification at all times when the licensee is in actual possession of a concealed weapon or firearm.<sup>100</sup> The license, however, “does not authorize any person to carry a concealed weapon or firearm into” the following places:<sup>101</sup>

- Any place of nuisance;<sup>102</sup>
- Any police, sheriff, or highway patrol station;
- Any detention facility, prison, or jail;
- Any courthouse;
- Any courtroom;<sup>103</sup>
- Any polling place;
- Any meeting of the governing body of a county, public school district, municipality, or special district;
- Any meeting of the Legislature or a committee thereof;
- Any school, college, or professional athletic event not related to firearms;
- Any elementary or secondary school facility or administration building;
- Any career center;

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<sup>94</sup> The law presumes that a person chronically and habitually uses alcoholic beverages or other substances to the point of impairment if the applicant has been convicted of using a firearm while under the influence of alcoholic beverages, chemical substances, or controlled substances or has been deemed a habitual offender of disorderly intoxication under s. 856.011(3), F.S., or has had two or more convictions of driving under the influence within a 3-year period preceding the date which the application is submitted. *See*, s. 790.06(2)(f), F.S.

<sup>95</sup> There are several methods of demonstrating competency with a firearm, including completion of a hunter education or safety course approved by the Fish and Wildlife Conservation Commission, completion of any law enforcement firearms safety or training course, or completion of firearms training safety courses using instructors certified by the National Rifle Association, Criminal Justice Standards and Training Commission, or the Department.

<sup>96</sup> An applicant who has been granted relief from firearms disabilities pursuant to s. 790.065(2)(a)4.d., F.S., after having been adjudicated mentally defective or committed to a mental institution is deemed not to have been committed in a mental institution.

<sup>97</sup> S. 790.06(2)(n), F.S.

<sup>98</sup> S. 790.06(3), F.S.

<sup>99</sup> *Id.*

<sup>100</sup> S. 790.06(1), F.S.

<sup>101</sup> S. 790.06(12)(a), F.S.

<sup>102</sup> *See* s. 823.05, F.S., for an extensive description of places of nuisance.

<sup>103</sup> However, judges may carry a concealed weapon and allow others to do so within their courtroom. Section 790.06(12)(a)5., F.S.

- Any portion of an establishment licensed to dispense alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to such purpose;
- Any college or university facility;<sup>104</sup>
- The inside of the passenger terminal and sterile area of any airport; or
- Any place where the carrying of firearms is prohibited by federal law.<sup>105</sup>

### Appointment of Tax Collectors to Accept Applications for a Concealed Weapon or Firearm License

DACS is authorized to appoint tax collectors<sup>106</sup> to accept applications on behalf of the DOL for concealed weapon or firearm licenses. A tax collector appointed under s. 790.0625, F.S., may collect and retain a convenience fee of \$22 for each new application and \$12 for each renewal application.<sup>107</sup>

A tax collector seeking to be appointed must submit a written request to the DOL stating his or her name, address, telephone number, each location within the county at which the tax collector wishes to accept applications, and other information as required by the DOL.<sup>108</sup> If the written request is approved by the DOL, the tax collector will be permitted to accept applications for new or renewal concealed weapon or firearm licenses on behalf of DACS.<sup>109</sup>

A tax collector is prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm.<sup>110</sup> Upon receipt of a completed renewal or replacement application, a new color photograph, and appropriate payment of required fees, an authorized tax collector may, upon approval and confirmation of license issuance by DACS, print and deliver a concealed weapon or firearm license to a licensee renewing his or her license at the tax collector's office.<sup>111</sup>

### **Solicitation of Contributions Act**

The Division of Consumer Services (DCS) within DACS is the state's clearinghouse for consumer complaints, information and protection. The DCS regulates various businesses, including charitable organizations. Organizations that intend to solicit donations in Florida are required to register with DACS pursuant to the Solicitation of Contributions Act (SCA).<sup>112</sup> The SCA contains basic registration, financial disclosures, and notification requirements for charitable organizations and sponsors,<sup>113</sup> fundraising consultants, and solicitors.

### Registration Statements

The SCA requires a charitable organization or sponsor, unless exempted pursuant to s. 496.406, F.S., which intends to solicit contributions to first file an initial registration statement, and a renewal statement annually, with DACS.<sup>114</sup>

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<sup>104</sup> However, a "student, employee, or faculty member" may carry a stun gun or nonlethal electric weapon designed for defensive purposes as long as the weapon does not fire a dart or projectile.

<sup>105</sup> S. 790.06(12)(a)1.-15., F.S.

<sup>106</sup> See s. Art. VIII, § 1(d), Fla. Const.

<sup>107</sup> S. 790.0625(5), F.S.

<sup>108</sup> S. 790.0625(3), F.S.

<sup>109</sup> S. 790.0625(3)(a), F.S.

<sup>110</sup> S. 790.0625(6)(a), F.S.

<sup>111</sup> S. 790.0625(8), F.S.

<sup>112</sup> See s. 496.401, F.S.

<sup>113</sup> S. 496.404(25), F.S., provides that a sponsor is a group or person who is or holds itself out to be soliciting contributions by the use of a name that implies that the group or person is in any way affiliated with or organized for the benefit of emergency service employees or law enforcement officers and the group or person is not a charitable organization. The term includes a chapter, branch, or affiliate that has its principal place of business outside the state if the chapter, branch, or affiliate solicits or holds itself out to be soliciting contributions in the state.

<sup>114</sup> S. 496.405(1), F.S.

The SCA requires initial registration statements to be submitted to DACS and include a financial report, a statement of the purpose of the charity, how donations will be used, names of individuals in charge of solicitation activities, and proof of federal tax exempt status. The charity must also identify any professional solicitors and fundraising consultants the charity will use, along with the terms of the arrangements for compensation to be paid to the consultant and solicitor. The registration must include a statement related to the charity's activity in other states, including whether the charity is authorized to operate in another state; whether the charity's registration has been denied, suspended, or revoked in another state; and whether the charity or any person associated with the charity has been subject to any adverse administrative actions or criminal convictions in any state.<sup>115</sup>

The following charitable organizations and sponsors are exempt from the registration requirements:

- A person who is soliciting for a named individual;
- A charitable organization or sponsor that limits solicitations of contributions to the membership of the charitable organization or sponsor;
- Any division, department, post, or chapter of certain veterans' service organizations are exempt from the registration requirements; or
- A charitable organization that has less than \$50,000 in total revenue so long as they did not employ professional solicitors or have paid employees.<sup>116</sup>

Before soliciting contributions, the charitable organization or sponsor claiming the exemption must provide DACS with certain financial and identifying information including the name, address, and telephone number of the charitable organization or sponsor, the name under which it intends to solicit contributions, the purpose for which it is organized, and the purpose for which the contributions to be solicited will be used.<sup>117</sup>

### Financial Statements

A charitable organization or sponsor that is required to register or renew registration must file an annual financial statement for the immediate preceding year with DACS. The statement must include:

- A balance sheet;
- A statement of support, revenue and expenses;
- Names and addresses of any charities, professional fundraising consultants, professional solicitors, and commercial co-ventures used and the amounts received from each of them; and
- A statement of functional expenses that must include program service costs, management and general costs, and fundraising costs.<sup>118</sup>

A charitable organization or sponsor is authorized to extend the time for the filing of a financial statement by up to 180 days upon the showing of good cause.<sup>119</sup>

### Disclosure Requirements of Charitable Organizations and Sponsors

Charitable organizations or sponsors can solicit contributions only for the purpose expressed in the solicitation for contributions or the registration statement. The following disclosures must be included at the point of solicitation:<sup>120</sup>

- The name of the organization or sponsor and principal place of business of the organization or sponsor;
- A description of the purpose for which the solicitation is being made;
- The name and address or telephone number of a person to whom inquiries may be addressed;
- The amount of the contribution which may be deducted from federal income tax; and
- The source from which a written financial statement may be obtained.

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<sup>115</sup> S. 496.405(2), F.S.

<sup>116</sup> S. 496.406(1), F.S.

<sup>117</sup> S. 496.406(2), F.S.

<sup>118</sup> S. 496.407(1), F.S.

<sup>119</sup> S. 496.407(3), F.S.

<sup>120</sup> S. 496.411, F.S.

## Professional Fundraising Consultants

Professional fundraising consultants<sup>121</sup> are required to annually register and pay a \$300 fee to DACS before operating in Florida.<sup>122</sup> Additionally, professional fundraising consultants who enter into agreements with charities may do so only if the charity has complied with the SCA, and has had their registration statement approved by DACS.<sup>123</sup>

Applications for registration or renewal must be signed by an authorized official of the professional fundraising consultant and must include certain identifying information such as:<sup>124</sup>

- The names and residence addresses of all principals of the applicant, including all officers, directors, and owners;
- The form of the applicant's business; and
- The street address and telephone number of the principal place of business of the applicant and any Florida street addresses if the principal place of business is located outside of Florida.

After receiving the registration statement, DACS has 15 business days to either approve the registration or notify the consultant that the registration requirements are not satisfied. If, after 15 days DACS has not notified the consultant, the registration is deemed approved.<sup>125</sup>

## Professional Solicitors

Professional solicitors<sup>126</sup> must annually register and pay a \$300 fee to DACS before operating in Florida.<sup>127</sup> Information that must be provided for registration or renewal includes the following:<sup>128</sup>

- The street address and telephone number of the business;
- The form of the applicant's business;
- The place and date when the applicant was legally established;
- The names and residence addresses of all principals, including officers, directors, and owners; and
- A list of all telephone numbers to be used by the applicant to solicit contributions as well as the physical address associated with each telephone number.

After receiving the registration statement, DACS has 15 business days to either approve the registration or notify the solicitor that the registration requirements are not satisfied. If, after 15 days DACS has not notified the solicitor, the registration is deemed approved.<sup>129</sup>

Solicitors must also file a solicitation notice with DACS at least 15 days before beginning a solicitation campaign or event. The notice must include identifying information including residence addresses.<sup>130</sup> During each solicitation campaign, and for not less than three years after its completion, the solicitor must maintain certain records including addresses of contributors and employees involved in the

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<sup>121</sup> S. 496.404(20), F.S., provides that a professional fundraising consultant is a person retained by a charitable organization or sponsor for a fixed fee or rate under a written agreement to plan, manage, conduct, carry on, advise, consult, or prepare material for a solicitation of contributions in Florida but who does not solicit contributions or employ, procure, or engage any compensated person to solicit contributions and who does not at any time have custody or control of contributions.

<sup>122</sup> S. 496.409(1), (3), F.S.

<sup>123</sup> See s. 496.409(6), F.S.

<sup>124</sup> S. 496.409(2), F.S.

<sup>125</sup> S. 496.409(6), F.S.

<sup>126</sup> S. 496.404(21), F.S., provides that a professional solicitor is a person who, for compensation, performs for a charitable organization or sponsor a service in connection with which contributions are or will be solicited in, or from a location in, Florida by the compensated person or by a person it employs, procures, or otherwise engages, directly or indirectly, to solicit contributions, or a person who plans, conducts, manages, carries on, advises, consults, directly or indirectly, in connection with the solicitation of contributions for or on behalf of a charitable organization or sponsor but who does not qualify as a professional fundraising consultant.

<sup>127</sup> S. 496.410, F.S.

<sup>128</sup> S. 496.410(2), F.S.

<sup>129</sup> S. 496.410(5), F.S.

<sup>130</sup> S. 496.410(6), F.S.



solicitation.<sup>131</sup> Additionally, if solicitors sell tickets to events and represents that the tickets will be donated for use by another person, the solicitor must maintain records including addresses of contributors and of organizations that receive the donated tickets.<sup>132</sup>

Each officer, director, trustee, or owner of a professional solicitor and any employee of a professional solicitor conducting phone solicitations during which a donor's personal financial information is requested or provided must obtain a solicitor license from DACS. Among other information, the license application must include the applicant's name, home address, date of birth, and identification number of a government-issued ID.<sup>133</sup>

### Collection Receptacles for Donations

The SCA defines a "collection receptacle" as a receptacle used to collect donated clothing, household items, or other goods for resale.<sup>134</sup> The SCA requires all collection receptacles for donations to display a permanent sign on each side of the receptacle. For receptacles used by a charity required to register under ch. 496, F.S., the sign must provide the name, address, telephone number, and registration number of the charity.<sup>135</sup>

### Solicitation of Funds within Public Transportation Facilities

Any person wanting to solicit funds within a public transportation facility<sup>136</sup> must obtain a written permit from the authority responsible for the administration of the facility.<sup>137</sup> The application for the permit submitted to the authority must "set forth" the:<sup>138</sup>

- Full name, mailing address, and telephone number of the person or organization;
- Full name, mailing address, and telephone number of each person participating in the activity as well as the person in charge of the activity;
- A description of the proposed activities;
- Dates and hours of the activities; and
- Number of persons engaged in such activities.

While conducting the activities, each solicitor must display prominently a badge or insignia provided by the authority that describes the solicitor by name, age, height, weight, eye color, hair color, address, and principal occupation and indicating the name of the organization for which the funds are solicited.<sup>139</sup>

## **Food Products**

### Chapter 500 Food Products

DACS is the agency responsible for the enforcement of the production, manufacture, transportation, and sale of food. DACS's Division of Food Safety is directly responsible for assuring the public of a safe, wholesome, and properly represented food supply.<sup>140</sup> The division accomplishes this through the permitting and inspection of food establishments, the inspection and evaluation of food products, and the performance of specialized laboratory testing on a variety of food products sold or produced in Florida. The division also proactively monitors food from manufacturing and distribution to retail.

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<sup>131</sup> S. 496.410(10), F.S.

<sup>132</sup> S. 496.410(11), F.S.

<sup>133</sup> S. 496.4101, F.S.

<sup>134</sup> S. 496.4121(1), F.S.

<sup>135</sup> S. 496.4121(2)(a), F.S.

<sup>136</sup> S. 496.425(1)(b), F.S., defines "facility" as any public transportation facility, including, but not limited to, railroad stations, bus stations, ship ports, ferry terminals, roadside welcome stations, highway service plazas, airports served by scheduled passenger service, or highway rest stations.

<sup>137</sup> See s. 496.425, F.S.

<sup>138</sup> S. 496.425(2), F.S.

<sup>139</sup> S. 496.425(6), F.S.

<sup>140</sup> FDACS, *Division of Food Safety*, <https://www.fdacs.gov/Divisions-Offices/Food-Safety> (last visited February 16, 2024).

DACS, as part of its responsibilities, can impose a variety of disciplinary actions against food establishments for specified violations.<sup>141</sup> This includes, but is not limited to, revoking or suspending the permit of a food establishment<sup>142</sup> or imposing Class II<sup>143</sup> administrative fines.<sup>144</sup> DACS, or its duly authorized agent, can also issue and enforce a stop-sale, stop-use, removal, or hold order if DACS or its agent finds any food, food processing equipment, area, or food storage area is in violation of the Florida Food Safety Act.<sup>145</sup>

### Cultivated Meat

The U.S. Department of Agriculture (USDA) describes cultivated meat as the use of a small number of cells taken from living animals and grown in a controlled environment to create food for human consumption.<sup>146</sup> The USDA summarizes the process of making cultured meat below:

- Step 1: Scientists typically start with a sample of cells from the tissue of an animal or fish, a process that typically does not permanently harm or kill the animal. Some cells from the sample are selected, screened, and grown to make a “bank” of cells to store for later use.
- Step 2: To make food, a small number of cells are taken from the cell bank and placed in a tightly controlled and monitored environment (e.g., a very large, sealed vessel) that supports growth and cellular multiplication by supplying appropriate nutrients and other factors.
- Step 3: After the cells have multiplied many times over into billions or trillions of cells, additional factors (e.g., protein growth factors, new surfaces for cell attachment, additional nutrients) are added to the controlled environment to enable the cells to differentiate into various cell types and assume characteristics of muscle, fat, or connective tissue cells.
- Step 4: Once the cells have differentiated into the desired type, the cellular material can be harvested from the controlled environment and prepared using conventional food processing and packaging methods.<sup>147</sup>

In 2019, the U.S. Food and Drug Administration (FDA) and the USDA’s Food Safety and Inspection Service agreed to establish a joint regulatory framework for human foods made from cultured cells of livestock and poultry to help ensure that any such products brought to market are safe, unadulterated, and truthfully labeled.<sup>148</sup>

As of 2024, several states have adopted laws related to the proper labeling of meat and lab grown meat products.<sup>149</sup> However, wide adoption of the creation of meat at the cellular level is not expected to happen soon due to the high cost associated with creating the product, scientific challenges regarding simulating the complex structure of meat, and government regulations.

### **Household Moving Services**

Chapter 507, F.S., is the chapter of Florida law governing Household Moving Services (Moving Law). The Moving Law provides requirements that household movers<sup>150</sup> must comply with in order to operate, including:

- Registration.<sup>151</sup>

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<sup>141</sup> S. 500.121(1), F.S.

<sup>142</sup> *Id.*

<sup>143</sup> The fine for each Class II violation cannot exceed \$5,000. S. 570.971(1)(b), F.S.

<sup>144</sup> S. 500.121(1), F.S.

<sup>145</sup> S. 500.172(1), F.S.

<sup>146</sup> USDA, *Human Food Made with Cultured Animal Cells*, <https://www.fsis.usda.gov/inspection/compliance-guidance/labeling/labeling-policies/human-food-made-cultured-animal-cells> (last visited January 19, 2024).

<sup>147</sup> *Id.*

<sup>148</sup> *Id.*

<sup>149</sup> Penn State Law, *Scope of the Meat Labeling Law Issue Tracker*, available at, <https://aglaw.psu.edu/research-by-topic/issue-tracker/meat-labeling-law-2018-present/> (last visited January 19, 2024).

<sup>150</sup> “Mover” is defined as a person who, for compensation, contracts for or engages in the loading, transportation or shipment, or unloading of household goods as part of a household move. The term does not include a postal, courier, envelope, or package service that does not advertise itself as a mover or moving service. S. 507.01(9), F.S.

- Required insurance coverages.<sup>152</sup>
- Estimates and contracts for service.<sup>153</sup>
- Requirements for delivery and storage of goods.<sup>154</sup>

The following acts are violations under the Moving Law:

- To conduct business, or advertise to engage in the business of moving, without being registered.
- To knowingly make any false statement, representation, or certification in any application, document, or record required to be submitted or retained.
- To misrepresent or deceptively represent:
  - The contract for services, bill of lading, or inventory of household goods for the move estimated.
  - The timeframe or schedule for delivery or storage of household goods estimated.
  - The price, size, nature, extent, qualities, or characteristics of accessorial or moving services offered.
  - The nature or extent of other goods, services, or amenities offered.
  - A shipper's<sup>155</sup> rights, privileges, or benefits.
- To fail to honor and comply with all provisions of the contract for services or bill of lading regarding the purchaser's rights, benefits, and privileges thereunder.
- To withhold delivery of household goods or in any way hold goods in storage against the expressed wishes of the shipper if payment has been made as delineated in the estimate or contract for services.
- To include in any contract any provision purporting to waive or limit any right or benefit provided to shippers.
- To seek or solicit a waiver or acceptance of limitation from a shipper concerning rights or benefits.
- To use a local mailing address, registration facility, drop box, or answering service in the promotion, advertising, solicitation, or sale of contracts, unless the mover's, and, if applicable, the moving broker's,<sup>156</sup> fixed business address is clearly disclosed during any telephone solicitation and is prominently and conspicuously disclosed on all solicitation materials and on the contract.
- To commit any other act of fraud, misrepresentation, or failure to disclose a material fact.
- To refuse or fail, or for any of the mover's or broker's principal officers to refuse or fail, after notice, to produce any document or record or disclose any information required to be produced or disclosed.
- To knowingly make a false statement in response to any request or investigation by the department, the Department of Legal Affairs, or the state attorney.
- For a moving broker to enter into a contract or agreement for moving, loading, shipping, transporting, or unloading services with a mover who is not registered with the department pursuant to this chapter.
- For a mover to enter into a contract or agreement for moving, loading, shipping, transporting, or unloading services with a moving broker who is not registered with the department pursuant to this chapter.
- For a mover or a moving broker to knowingly refuse or fail to disclose in writing to a customer before a household move that the mover, or an employee or subcontractor of the mover or moving broker, who has access to the dwelling or property of the customer, including access to give a quote for the move, has been convicted of a felony listed in s. 775.21(4)(a)1, F.S., or

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<sup>151</sup> S. 507.03, F.S.

<sup>152</sup> S. 507.04, F.S.

<sup>153</sup> S. 507.05, F.S.

<sup>154</sup> S. 507.06, F.S.

<sup>155</sup> "Shipper" is defined as a person who uses the services of a mover to transport or ship household goods as part of a household move. S. 507.01(12), F.S.

<sup>156</sup> "Moving broker" is defined as a person who, for compensation, arranges for another person to load, transport or ship, or unload household goods as part of a household move or who, for compensation, refers a shipper to a mover by telephone, postal or electronic mail, Internet website, or other means. S. 507.01(10), F.S.

convicted of a similar offense of another jurisdiction, regardless of when such felony offense was committed.

Penalties for violations of the Moving Law, can include penalties under the Florida Deceptive and Unfair Trade Practices Act.<sup>157</sup> DACS is also authorized to do the following if it finds a violation:<sup>158</sup>

- Issue a notice of noncompliance under s. 120.695, F.S.
- Impose an administrative fine in the Class II category pursuant to s. 570.971, F.S., for each act or omission. However, DACS must impose an administrative fine in the Class IV category for each violation of s. 507.07(9), F.S., if it does not seek a civil penalty for the same offense.
- Direct that the person cease and desist specified activities.
- Refuse to register or revoke or suspend a registration.
- Place the registrant on probation, subject to the conditions specified by DACS.

It is a third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S., for a mover or a mover's employee, agent, or contractor to refuse to comply with an order from a law enforcement officer to relinquish a shipper's household goods after the officer determines that the:

- Shipper has tendered payment of the amount of a written estimate or contract; or
- Mover did not produce a signed estimate or contract upon which demand is being made for payment.

### **Sunset of Weights and Measures Act**

Chapter 531, F.S., the "Weights and Measures Act of 1971" (WMA) is the chapter of Florida law which governs the methods and devices that monitor the accuracy of Florida's gas pumps, scales, price scanners, and other commercial weighing and measuring devices to promote a fair and equitable marketplace and protect consumers.<sup>159</sup>

The DACS Bureau of Standards is responsible for the inspection of weights and measures devices or instruments in Florida.<sup>160</sup> "Weights and measures" are defined as all weights and measures of every kind, instruments, and devices for weighing and measuring, and any appliance and accessories associated with any or all such instruments and devices, excluding taximeters, transportation measurement systems, and those weights and measures used for the purpose of inspecting the accuracy of devices used in conjunction with aviation fuel.<sup>161</sup> The weights and measures program is funded through permit fees.<sup>162</sup>

The WMA, including provisions related to general permitting, initial and renewal applications, maximum permit fees, suspensions, penalties, revocations, and exemptions, sunsets on July 1, 2025.<sup>163</sup>

### **Motor Vehicle Repair Shop Registration and Written Repair Estimates**

Chapter 59, part IX, the "Florida Motor Vehicle Repair Act" (MVRA) is the chapter of Florida law that governs the registration of motor vehicle repair shops in Florida. The MVRA requires anyone who is paid to repair motor vehicles owned by other individuals to register with DACS.<sup>164</sup> Registration applications must include the:

- Name of the applicant;
- Name under which the applicant is doing business;
- Business address; copies of all licenses, permits, and certifications; and

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<sup>157</sup> S. 507.08, F.S.

<sup>158</sup> S. 507.09, F.S.

<sup>159</sup> FDACS, *Weights and Measures*, <https://www.fdacs.gov/Business-Services/Weights-and-Measures> (last visited Jan. 18, 2024).

<sup>160</sup> Ch. 531, F.S.

<sup>161</sup> S. 531.37(1), F.S.

<sup>162</sup> S. 531.63, F.S.

<sup>163</sup> S. 531.67, F.S.

<sup>164</sup> S. 559.904, F.S.

- Number of employees which the applicant intends to employ or currently employed.<sup>165</sup>

Each application must be accompanied by a registration fee calculated on a per-year basis.<sup>166</sup>

For repairs costing more than \$100, repair shops are required to prepare a written repair estimate that includes the estimated cost of repair work, including diagnostic work, before beginning any diagnostic work or repair. The repair shop must then give the customer the option of:

- Requesting a written estimate;
- Being notified by the shop if the repair exceeds an amount the customer specifies; or
- Not requiring a written estimate at all.<sup>167</sup>

## DACS Functions, Powers, and Duties

Under current law, DACS is authorized to repair or build structures that do not exceed \$250,000 per structure from existing appropriations authority.<sup>168</sup>

## Florida Agricultural Museum

The Florida Agricultural Museum was established in 1983 by a group of concerned agriculturalists and historians at the request of Agricultural Commissioner Doyle Conner to help preserve this important part of Florida's heritage.<sup>169</sup> Originally located in Tallahassee, the museum was part of DACS.<sup>170</sup> The Museum, now located in Flagler County, is a private non-profit 501(c)(3) corporation led by a board of trustees.<sup>171</sup>

The Florida Agricultural Museum is designated as the museum of agriculture and rural history of the State of Florida and is established within DACS.<sup>172</sup> DACS is authorized to establish direct support organizations in order to provide assistance, funding, and promotion support for the programs of DACS, including support for the Florida Agricultural Museum.<sup>173</sup>

## Saw Palmetto Berries

Saw palmetto (*serenoa repens*) is a native plant to the Southeast and grows wild in Florida's natural areas.<sup>174</sup> This native plant is a slow-growing, clumping, multi-trunked palm that typically grows five to 10 feet tall and spreads four to 10 feet wide. Saw palmetto is great for wildlife, as the berries are an important food source for many mammals and birds.<sup>175</sup>

Saw palmetto berries collected from forests in Florida and Georgia are the most abundantly harvested medicinal non-timber forest products (NTFPs) in terms of dry weight.<sup>176</sup> Harvesting saw palmetto berries has been part of Florida life since before 1575, the time of the first written notice of indigenous groups eating berries fresh or drying them for winter. Presently, the biggest draw to the berries are the

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<sup>165</sup> S. 559.904(1), F.S.

<sup>166</sup> S. 559.904(3), F.S.

<sup>167</sup> S. 559.905, F.S.

<sup>168</sup> S. 570.07(38), F.S.

<sup>169</sup> Florida Agricultural Museum, *About the Museum*, <https://www.floridaagmuseum.org/about-the-museum/> (last visited January 19, 2024).

<sup>170</sup> *Id.*

<sup>171</sup> *Id.*

<sup>172</sup> S. 570.692, F.S.

<sup>173</sup> S. 570.691, F.S.

<sup>174</sup> UF/IFAS, Saw Palmetto, <https://gardeningsolutions.ifas.ufl.edu/plants/trees-and-shrubs/palms-and-cycads/saw-palmetto.html> (last visited Feb. 16, 2024).

<sup>175</sup> *Id.*

<sup>176</sup> FDACS, *Non-Timber Forest Products (NTFP): Additional Potential Revenue Sources for Forest Landowners*, <https://www.fdacs.gov/Forest-Wildfire/Our-Forests/Working-Forest/Non-Timber-Forest-Products-NTFP> (last visited January 19, 2024).

medicinal purposes they are said to possess.<sup>177</sup> Saw palmetto berries are used to treat problems associated with urinary health, hair loss, symptoms of benign prostatic hyperplasia inflammation, and irregular testosterone levels.<sup>178</sup> Large retailers sell shampoo, powders, capsules, and other products featuring saw palmetto berries. Some believe that extracts from the berries could also be an alternative treatment for prostate cancer, despite statements from the American Cancer Society that there is no evidence of this.<sup>179</sup>

The Endangered Plant Advisory Council unanimously recommended adding saw palmetto to the DACS commercially exploited plant list due in part to the issue of many landowners having trouble with poaching and trespassing.<sup>180</sup>

Effective July 2018, DACS requires a permit to harvest and sell saw palmetto berries in Florida.<sup>181</sup> There is no application fee to apply for a permit. The permit expires twelve months after the date of issuance and is not transferable.<sup>182</sup>

Due to their value, saw palmetto berries are tempting targets for thieves. Recently, the problem has been growing in Florida. For example, the Indian River County Sheriff's Office recently apprehended more than a dozen people stealing hundreds of pounds of these berries from private property and government land.<sup>183</sup>

## Livestock

The DACS Division of Animal Industry (DAI) is responsible for enforcing animal health regulations in Florida and protecting the state from animal pests and diseases.<sup>184</sup> 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.<sup>185</sup>

Under Florida's Comprehensive Emergency Management Plan, the DAI serves as the lead agency for animal and agricultural issues, planning and coordinating the state's response to emergencies ranging from hurricanes to animal disease outbreaks.<sup>186</sup>

Chapter 585, part II, F.S., relating to disease, inspection, control, and eradication of animal diseases, defines "livestock" as grazing animals, such as cattle, horses, sheep, swine, goats, other hoofed animals, ostriches, emus, and rheas which are raised for private use or commercial purposes.<sup>187</sup>

## Trespassing on Agricultural Land

### Agricultural Lands

Under Florida's greenbelt law,<sup>188</sup> only lands that are used primarily for bona fide agricultural purposes may be classified agricultural. The law defines "bona fide agricultural purposes" to mean good faith

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<sup>177</sup> FDACS, Saw Palmetto Berry: 2020, <https://fdacsdpi.wordpress.com/2020/09/04/saw-palmetto-berry-2020/> (last visited Feb. 16, 2024).

<sup>178</sup> *Id.*

<sup>179</sup> UF/IFAS, *Saw Palmetto*, <https://gardeningsolutions.ifas.ufl.edu/plants/trees-and-shrubs/palms-and-cycads/saw-palmetto.html> (last visited Feb. 16, 2024).

<sup>180</sup> *Id.*, FDACS, *Saw Palmetto Berry: 2020*, <https://fdacsdpi.wordpress.com/2020/09/04/saw-palmetto-berry-2020/> (last visited Feb. 16, 2024).

<sup>181</sup> FDACS, *Saw Palmetto Berry Harvesting*, <https://www.fdacs.gov/Agriculture-Industry/Plant-Industry-Permits/Saw-Palmetto-Berry-Harvesting> (last visited Jan. 19, 2024).

<sup>182</sup> *Id.*

<sup>183</sup> Dylan Huberman, *Berry Burglars: Saw palmetto berry theft increases as thieves eye lucrative natural remedy*, 12News, <https://cbs12.com/news/local/saw-palmetto-berries-berry-burglars-thieves-targeting-saw-palmetto-berries-in-indian-river-county-sheriffs-office-destroying-property-to-steal-them-lucrative-natural-remedy-september-28-2023> (last visited Jan. 19, 2024).

<sup>184</sup> S. 570.36, F.S.

<sup>185</sup> FDACS, *Division of Animal Industry*, <https://www.fdacs.gov/Divisions-Offices/Animal-Industry> (last visited Jan. 19, 2024).

<sup>186</sup> S. 252.3569, F.S.

<sup>187</sup> S. 585.01(13), F.S.

**STORAGE NAME:** h1071e.ISC

**DATE:** 2/26/2024



commercial agricultural use of the land.<sup>189</sup> Various factors are considered when determining if land is being used for a bona fide agricultural use, including:<sup>190</sup>

- The length of time the land has been so used;
- Whether the use has been continuous;
- The purchase price paid;
- Size, as it relates to specific agricultural use, but a minimum acreage is not required;
- Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices; and
- Whether the land is leased and, if so, the effective length, terms, and conditions of the lease.

Nonresidential buildings, structures, or facilities constructed on a farm for agritourism activities constitute a bona fide agricultural use of the land so long as the buildings, structures, or facilities are an integral part of the agricultural operation.<sup>191</sup> In 2021, Florida had 47,500 commercial farm operations, spanning a total of 9.7 million acres.<sup>192</sup> 5,000 of these farms had sales exceeding \$100,000.<sup>193</sup>

### Criminal Trespass

Any person who, without being authorized, licensed, or invited, willfully enters upon or remains in any property, other than a structure or conveyance, as to which notice against entering or remaining is given in the form of “no trespassing signs” or other such postings commits the offense of trespass on property other than a structure or conveyance.<sup>194</sup> The unauthorized entry by any person into or upon any enclosed and “posted land” is prima facie evidence of the intent to commit trespass.<sup>195</sup> The offense is a first-degree misdemeanor,<sup>196</sup> punishable by up to one year in county jail<sup>197</sup> or a fine up to \$1,000.<sup>198</sup>

Posted lands are lands that have signs posted not more than 500 feet apart along, and at each corner of, the boundaries of the land.<sup>199</sup> Such signs must have “no trespassing” in letters not less than 2 inches with the name of the owner, lessee, or occupant of the land on the sign.<sup>200</sup> No trespassing signs must be posted so they are in a position that is clearly noticeable from the outside boundary line<sup>201</sup> or there may be a conspicuous no trespassing notice painted on the trees or posts on the property with certain specifications.<sup>202</sup> Such notices are not necessary on any enclosed lands or lands not exceeding five acres in an area on which there is a dwelling house.<sup>203</sup>

Any person who willfully removes, destroys, mutilates, or commits any act designed to remove, mutilate, or reduce the legibility or effectiveness of any posted notice placed by the owner, tenant,

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<sup>188</sup> S. 193.461, F.S.

<sup>189</sup> S. 193.461(3)(b), F.S.

<sup>190</sup> *Id.*

<sup>191</sup> S. 570.87(1), F.S.

<sup>192</sup> FDACS, *Florida Agriculture Overview and Statistics*, <https://www.fdacs.gov/Agriculture-Industry/Florida-Agriculture-Overview-and-Statistics> (last visited Feb. 16, 2024).

<sup>193</sup> *Id.*

<sup>194</sup> S. 810.09(1)(a)1., F.S.

<sup>195</sup> S. 810.12(1), F.S.

<sup>196</sup> S. 810.09(2)(a), F.S.

<sup>197</sup> S. 775.082(4)(a), F.S.

<sup>198</sup> S. 775.083(1)(d), F.S.

<sup>199</sup> S. 810.011(5)(a)1., F.S.

<sup>200</sup> *Id.*

<sup>201</sup> *Id.*

<sup>202</sup> S. 810.011(5)(a)2.a., F.S. Notices painted on trees or posts must be painted in an international orange color and display the stenciled words “No Trespassing” in letters no less than two inches high and one inch wide, placed so the bottom of the painted notice is not less than three feet from the ground or more than five feet from the ground and placed at locations that are readily visible to any person approaching the property and no more than 500 feet apart on agricultural land. A person using such signs must still post “no trespassing” signs at all places where entry to the property is normally expected.

<sup>203</sup> S. 810.011(5)(b), F.S.

lessee, or occupant of legally posted land commits a first-degree misdemeanor,<sup>204</sup> punishable by up to one year in county jail<sup>205</sup> or a fine up to \$1,000.<sup>206</sup>

### Florida Youthful Offender Act

The purpose of the Florida Youthful Offender Act is to improve the chance of correction and successful return of youthful offenders sentenced to imprisonment to the community by providing them with enhanced vocational, educational, counseling, or public service opportunities; and by preventing their association with older and more experienced criminals during the time of their confinement.<sup>207</sup> In lieu of other criminal penalties authorized by the law, a court may place a youthful offender under supervision or in a community control program, with or without an adjudication of guilt.<sup>208</sup>

### **Public School Attendance Policies**

Florida law directs district school boards to establish attendance policies defining excused or unexcused absences or tardiness.<sup>209</sup> Specific criteria for determining whether an absence or tardiness is excused or unexcused are determined by the district school board.<sup>210</sup> The parent of a student who is absent from school must justify the absence, and the absence is evaluated based on the school board's attendance policies.<sup>211</sup> However, a parent is not responsible for the student's nonattendance at school if:

- The absence was with permission of the head of the school;
- The absence was without the parent's knowledge, consent, or connivance, in which case the student must be dealt with as a dependent child;
- The parent is financially unable to provide necessary clothes; or
- On account of sickness, injury, or other insurmountable conditions.<sup>212</sup>

### **4-H Youth Development Program**

The 4-H Youth Development Program (4-H) is the youth outreach program from the land-grant universities' Cooperative Extension Services and the USDA. Its name is a reference to the occurrence of the initial letter H four times in the organization's original motto "head, heart, hands, and health." The organization is administered by the National Institute of Food and Agriculture of the USDA.<sup>213</sup>

The mission of 4-H is to provide meaningful opportunities for all youth and adults to work together to create sustainable community change. This is accomplished within three primary content areas, or mission areas:<sup>214</sup>

- Civic engagement and leadership.
- Healthy living.
- Science.

Though typically thought of as an agriculturally focused organization, 4-H today focuses on citizenship, healthy living, science, engineering, and technology programs. Clubs in today's 4-H world consist of a wide range of options each allowing for personal growth and career success.<sup>215</sup> There are approximately 230,000 4-H members in Florida and 6.5 million in the US. Florida 4-H is the youth

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<sup>204</sup> S. 810.10(1)-(2), F.S.

<sup>205</sup> S. 775.082(4)(a), F.S.

<sup>206</sup> S. 775.083(1)(d), F.S.

<sup>207</sup> Section 958.021, F.S.

<sup>208</sup> Section 958.04(2)(a), F.S.

<sup>209</sup> S. 1003.24, F.S.

<sup>210</sup> *Id.*

<sup>211</sup> S. 1003.26, F.S.

<sup>212</sup> S. 1003.24, F.S.

<sup>213</sup> USDA, *4-H and Positive Youth Development*, <https://www.nifa.usda.gov/grants/programs/4-h-positive-youth-development> (last visited Jan. 19, 2024).

<sup>214</sup> *Id.*

<sup>215</sup> Washington State University, *4-H Youth Development*, <https://extension.wsu.edu/island/youth/> (last visited Jan. 19, 2024).



development program of Florida Cooperative Extension, a part of the University of Florida Institute of Food and Agricultural Sciences (IFAS).<sup>216</sup>

## **Future Farmers of America**

The Future Farmers of America (FFA) National FFA Organization is a youth leadership organization that helps young people develop their potential for leadership, personal growth, and career success through agriculture education. The FFA motto is “learning to do, doing to learn, earning to live, living to serve.”<sup>217</sup>

FFA is an intracurricular student organization for those interested in agriculture and leadership. It is one of the three components of agricultural education. The official name of the organization is the National FFA Organization. The letters “FFA” stand for Future Farmers of America.<sup>218</sup>

The Florida FFA Association is governed by a board of directors comprised of teachers and students, charters local chapters and provides direction, program materials, and support for local chapters. Its headquarters are in Gainesville, Florida, and its Leadership Training Center is located in Haines City, Florida. There are approximately 26,000 Florida FFA members.<sup>219</sup>

## **Effect of Proposed Changes**

### **Electric Vehicle Charging Stations**

The bill:

- Preempts the regulation of electric vehicle charging stations to the state.
- Prohibits a local governmental entity from enacting or enforcing an ordinance or regulation related to electric vehicle charging stations.

### **Pest Control**

#### **Pest Control Operator’s Certificate**

The bill provides that a pest control operator’s certificate expires one year after the date of issuance and revises the requirements for its renewal, as follows:

- Requires the certificateholder to apply to DACS for renewals on or before the one year anniversary of the date of issuance.
- Provides that if a certificateholder fails to renew his or her certificate and provide proof of completion of the required continuing education within 60 days after the certificate’s expiration date, the certificateholder may be recertified only after reexamination.
- Removes the provision specifying that an unrenewed certificate automatically expires 180 calendar days after the anniversary renewal date.
- Requires 2 hours of continuing education to be completed in order to renew a certificate.

#### **Special Identification Card for Fumigation**

The bill provides that a special identification card for fumigation expires one year after the date of issuance and revises the requirements for its renewal, as follows:

- Requires the cardholder to apply to DACS for renewals on or before the one year anniversary of the date of issuance.
- Provides that if a cardholder fails to renew his or her card and provide proof of completion of the required continuing education within 60 days after the card’s expiration date, the cardholder may be reissued a card only after reexamination.

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<sup>216</sup> Florida 4-H, What is 4-H?, <https://florida4h.ifas.ufl.edu/about-us/> (last visited January 9, 2024).

<sup>217</sup> FFA, *About FFA*, <https://www.ffa.org/about/> (last visited Jan. 19, 2024).

<sup>218</sup> *Id.*

<sup>219</sup> Florida FFA, *Who We Are*, <https://flaffa.org/foundation/about-us/> (last visited Jan. 19, 2024).

- Removes the provision specifying that an unrenewed card automatically expires 180 calendar days after the anniversary renewal date.
- Requires either 2 hours of continuing education or passage of a fumigation exam in order to renew a card.

#### Limited Certification of Government Pesticide Applicators or Private Applicators

The bill provides that a limited certification of government pesticide applicators or private applicators expires four years after the date of issuance. If the certificateholder fails to renew his or her certificate and provide proof of completion of the required continuing education units within 60 days after the expiration date, the certificateholder may be recertified only after reexamination.

#### Limited Certification of Commercial Landscape Personnel

The bill expands the areas where authorized individual commercial landscape maintenance personnel may apply herbicides and may use certain pesticides. The bill provides that a limited certification for commercial landscape maintenance personnel expires one year after the date of issuance and revises the requirements for its renewal. Specifically, the bill:

- Authorizes individual commercial landscape maintenance personnel to apply herbicides for controlling weeds in additional areas, including driveways, sidewalks, and patios.
- Authorizes individual commercial landscape maintenance personnel to perform integrated pest management on ornamental plants using pesticides, instead of insecticides and fungicides, that do not have a signal word or that have the signal word “caution” but do not have the signal word “warning” or “danger” on the label.
- Specifies that application equipment is limited to portable, handheld application equipment and backpack sprayers, and does not include any type of power equipment.
- Removes the requirement for an applicant to complete 6 classroom hours of plant bed and ornamental continuing education training in order to be eligible to take the examination.
- Requires a certificateholder to apply to DACS to renew his or her certificate on or before the 1-year anniversary of the date of issuance.
- Requires a certificateholder who fails to renew his or her certificate and provide proof of completing the required continuing education units within 60 days after the expiration date, to be recertified only after reexamination.
- Removes the provision specifying that an unrenewed certificate automatically expires 180 calendar days after the anniversary renewal date.

#### Limited Certification for Commercial Wildlife Management Personnel

The bill provides that the limited certification for commercial wildlife management personnel expires one year after the date of issuance and revises requirements for its renewal, as follows:

- Requires a certificateholder to apply to DACS to renew his or her certificate on or before the 1-year anniversary of the date of issuance.
- Requires a certificateholder who fails to renew a certificate and provide proof of completing the required continuing education units within 60 days after the expiration date, to be recertified only after reexamination.
- Removes the provision specifying that an unrenewed certificate automatically expires 180 calendar days after the recertification date if the renewal fee has not been paid.

#### Violations for False Statements on Applications and Cheating on Exams

The bill provides the following additional disciplinary grounds related to licensure or licensure renewal applications under the Pest Control Act:

- Swearing to or affirming a false statement in an application for a license.
- Cheating on an examination required for licensure or violating a published test center or examination procedure provided orally, in writing, or electronically at the test site and affirmatively acknowledged by the examinee.

The bill:

- Prohibits swearing to or affirming a false statement in an application for a license or certificate issued pursuant to the Pest Control Act.
  - Specifies that a false statement contained in an application for such license or certificate renders the application, license, or certificate void.
- Prohibits cheating on an examination required for licensure or violating a published test center or examination procedure provided orally, in writing, or electronically at the test site and affirmatively acknowledged by an examinee.
  - Specifies that violations render the examinee's exam attempt void.
- Requires DACS to adopt rules establishing penalties for examinees who are in violation.
- Authorizes DACS to exercise discretion in assessing penalties based on the nature and frequency of the violation.

### Wood-destroying Organism Preventative or Control Contracts

The bill specifies that if an inspection is conducted as specified in a wood-destroying organisms preventative or control contract, or any treatment covered by such a contract is performed, the licensee must provide the property owner with a signed report indicating the presence or absence of wood-destroying organisms, whether treatment was made, and the type of pesticide used.

The bill specifies that if a licensee performs an inspection that is not specified in a wood-destroying organisms preventative or control contract and wood-destroying organisms are identified, then the licensee must provide the property owner with a signed report notifying the owner of the presence of wood-destroying organisms.

### **Florida Pesticide Law**

#### Violations for False Statements on Applications and Cheating on Exams

The bill prohibits pesticide applicator license applicants from:

- Swearing to or affirming a false statement in an application for a license.
- Cheating on an examination required for licensure or violating a published test center or examination procedure provided orally, in writing, or electronically at the test site and affirmatively acknowledged by the examinee.

The bill:

- Prohibits swearing to or affirming a false statement in an application for a license or certificate.
  - Specifies that a false statement contained in an application for such license or certificate renders the application, license, or certificate void.
- Prohibits cheating on an examination required for licensure or violating a published test center or examination procedure provided orally, in writing, or electronically at the test site and affirmatively acknowledged by an examinee.
  - Specifies that violations render the examinee's exam attempt void.
- Requires DACS to adopt rules establishing penalties for examinees who are in violation.
- Authorizes DACS to exercise discretion in assessing penalties based on the nature and frequency of the violation.

### **Firearm Licensing**

The bill provides that a Class "K" instructor has discretion to allow a Class "G" licensee to qualify for up to two calibers of firearms in one 4-hour firearm requalification class if the licensee successfully completes training for each firearm, including a separate course of fire for each caliber of firearm.

### **Appointment of Tax Collectors for Licenses Issued Under Ch. 493, F.S.**

The bill:

- Authorizes DACS to appoint tax collectors, county officers as described in s. 1(d), Art. VIII of the State Constitution, to accept new, renewal, and replacement license applications on behalf of DACS for licenses issued under ch. 493, F.S. Such appointments must be for specified locations that will best serve the public interest and convenience in persons applying for these licenses.
- Requires DACS to establish by rule the type of new, renewal, or replacement licenses a tax collector appointed under this section is authorized to accept.
- Requires a tax collector seeking to be appointed to submit a written request to DACS stating his or her name, address, telephone number, each location within the county at which the tax collector wishes to accept applications, and other information as required by DACS.
- Requires DACS to review each written request upon receipt.
- Authorizes DACS to decline to enter into a memorandum of understanding or approve the written request and enter into a memorandum of understanding with the tax collector to accept applications for new or renewal licenses on behalf of DACS. However, DACS may rescind a memorandum of understanding for any reason at any time.
- Provides that information and records provided pursuant to ss. 493.6105 and 493.6113, F.S., remain confidential pursuant to s. 493.6122, F.S., or any other state or federal law.
- Prohibits any person from handling an application for a license issued under ch. 493, F.S., for a fee or compensation of any kind unless he or she has been appointed by DACS to do so.
- Authorizes an appointed tax collector to collect and retain the following convenience fees:
  - \$22 for each new application.
  - \$12 for each renewal application.
  - \$12 for each replacement license.
  - \$9 for fingerprinting services associated with the completion of an application submitted online or by mail.
  - \$9 for photographing services associated with the completion of an application submitted online or by mail.
- Requires, each week, the tax collector to remit the license fees to DACS to be deposited in the Division of Licensing Trust Fund.
- Provides that a person who willfully violates these provisions commits a second degree misdemeanor.
- Provides that upon receipt of a completed renewal or replacement application, a new color photograph, and appropriate payment of required fees, an authorized tax collector may, upon approval and confirmation of license issuance by DACS, print and deliver a license to a licensee renewing or replacing his or her license at the tax collector's office.

### **Appointment of Tax Collectors to Accept Applications for Concealed Weapon or Firearm License**

The bill:

- Provides that a tax collector appointed under s. 790.0625, F.S., may collect and retain:
  - \$12 for each replacement license.
  - \$9 for fingerprinting services associated with the completion of an application submitted online or by mail.
  - \$9 for photographing services associated with the completion of an application submitted online or by mail.
- Authorizes a tax collector to print and deliver a concealed weapon or firearm license to a licensee whose license has been lost or destroyed upon receipt of a statement under oath to DACS and payment of required fees. DACS must approve and confirm that the aforementioned license is in good standing. Additionally, a tax collector who is authorized to accept an application for a concealed weapon or firearm license may provide fingerprinting and photographing services to aid concealed weapon and firearm applicants and licensees with initial and renewal applications submitted online or by mail.

### **Solicitation of Contributions Act**

The bill:

- Defines the term “street address” as the physical location where activities subject to regulation under ch. 496, F.S., are conducted or where an applicant, licensee, or other referenced individual actually resides. The term does not include a virtual office, a post office box, or a mail drop.
- Specifies that charitable organizations may be exempt from registration based on total contributions during a fiscal year, rather than total revenue.
- Revises the information charitable organizations and sponsors must provide DACS when claiming certain exemptions to include street addresses.
- Revises the financial information charitable organizations and sponsors must provide DACS to include street addresses, and removes the requirement that a charitable organization or sponsor must show good cause in order to receive a filing extension from DACS.
- Revises the information professional fundraising consultants must include in applications for registration or renewals of registration to include street addresses rather than residence addresses.
- Revises the information that professional solicitors must include in applications for registration, renewals of registration, and solicitation notices provided to DACS, and that solicitors are required to maintain in their records to include street addresses rather than physical or residence addresses.
- Revises the information that must be included in certain solicitor license applications to include street addresses rather than home addresses.
- Specifies that disclosures of charitable organizations or sponsors soliciting in Florida must include street addresses.
- Revises the information that must be displayed on certain collection receptacles to include street addresses.
- Provides that a person who solicits funds within a public transportation facility must provide in an application to the authority and must display prominently on the person’s badge or insignia, to include street addresses.

## **Cultivated Meat**

Effective upon this act becoming law, the bill:

- Defines “cultivated meat” to mean any meat or food product produced from cultured animal cells.
- Makes it unlawful to manufacture for sale, sell, hold or offer for sale, or distribute cultivated meat in the state.
- Provides that a person who knowingly manufactures for sale, sells, holds or offers for sale, or distributes cultivated meat in the state commits a second degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083, F.S.
- Provides that a food establishment that manufactures, distributes, or sells cultivated meat is subject to disciplinary action pursuant to s. 500.121, F.S.
- Provides that the license of any restaurant, store, or other business may be suspended as provided in the applicable licensing law upon the conviction of an owner or employee of that business for a violation in connection with that business.
- Provides that a product found to be in violation is subject to s. 500.172, F.S., and an immediate stop-sale order.
- Authorizes DACS to adopt rules to implement these provisions.

## **Household Moving Services**

The bill prohibits a mover from placing a shipper's goods in a self-service storage unit or self-contained storage unit owned by anyone other than the mover unless those goods are stored in the name of the shipper and the shipper contracts directly with the owner of the self-service storage unit or self-contained storage unit.

## **Sunset of Weights and Measures Act**

The bill repeals the provision that sunsets the WMA on July 1, 2025.

## **Motor Vehicle Repair Shop Registration and Written Repair Estimates**

The bill:

- Removes the requirement for a motor vehicle repair shop to provide copies of licenses, permits, and certifications obtained by the applicant or employees of the applicant on the registration application.
- Specifies that the registration fee must be calculated for each location and be based on the number of employees the business employs who perform repairs.
- Increases the threshold value of repair work which requires a motor vehicle repair shop to provide a customer with a written repair estimate from \$100 to \$150.

## **DACS Functions, Powers, and Duties**

The bill increases the amount that DACS is authorized to use from existing appropriations authority to repair or build structures from \$250,000 per structure to \$500,000 per structure.

## **The Florida Agricultural Museum**

The bill changes the name of the Florida Agricultural Museum to the Florida Agricultural Legacy Learning Center and makes conforming changes.

## **Saw Palmetto Berries**

The bill prohibits certain activities and establishes penalties related to destroying, harvesting, or selling saw palmetto berries under certain circumstances, as follows:

### Violation

The bill makes it unlawful for any person to willfully destroy, harvest, or sell saw palmetto berries on the private land of another or on any public land without first obtaining written permission from the landowner or legal representative of the landowner and a permit from DACS.

### Landowner Permission

The bill requires the landowner's written permission to include all of the following information:

- The name, address, and telephone number of the landowner.
- The start date, end date, and location, including county, of the harvest.
- The landowner's actual or electronic signature.

### Bill of Lading

The bill requires a saw palmetto berry dealer that purchases saw palmetto berries from a landowner or a person harvesting saw palmetto berries from another's property to maintain a bill of lading, a copy of the harvester's entire permit, a copy of the landowner's written permission to harvest, and all of the following:

- The name, address, and telephone number of the seller.
- The date or dates of harvesting.
- The weight, quantity, or volume and a description of the type of saw palmetto berries harvested.
- A scan or photocopy of a valid government-issued photo identification card of such person.
  - Such persons must maintain the information to retain such records for at least 2 years from the date the harvest ends.

### Law Enforcement

The bill authorizes any law enforcement officer or authorized employee of DACS who finds that any saw palmetto berries are being harvested, offered for sale, or exposed for sale, without the landowner's written permission or a permit from DACS, to seize or hold the saw palmetto berries at a designated location until the individual:

- Provides the officer or employee with the required permit and landowner's written permission to harvest, within 7 calendar days following the seizure; or
- Legally disposes of the saw palmetto berries.

A law enforcement officer or authorized DACS employee is required to release the saw palmetto berries when an individual provides proof that the requirements have been met. Any unlawfully harvested saw palmetto berries constitute contraband and are subject to seizure and disposal.

The bill provides that notwithstanding any other provision of law, a law enforcement agency that seizes saw palmetto berries harvested or possessed in violation of these provisions, or in violation of any other state or federal law, is authorized to sell such saw palmetto berries and retain the proceeds of the sale for the enforcement of these provisions.

The bill provides that law enforcement agencies selling contraband saw palmetto berries are exempt from s. 581.185, F.S.

The bill requires law enforcement agencies that seize unlawfully harvested saw palmetto berries to submit annually to DACS, in the manner prescribed by DACS rule:

- The quantity and a description of the saw palmetto berries seized; and
- The location from which the saw palmetto berries were harvested, if known.

#### Penalties for Violations

The bill provides the following penalties for violations:

- A harvester that exchanges or offers to exchange saw palmetto berries with a saw palmetto dealer, seller, or processor for money or any other valuable consideration without first presenting to the saw palmetto berry dealer, seller, or processor the person's entire permit, as provided in s. 581.185, F.S., or the landowner's written permission commits a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083, F.S.
- A person required to maintain records as required that fails to maintain such records for the required 2 year time period commits a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083, F.S.
- A person that willfully destroys or harvests saw palmetto berries without first obtaining the landowner's written permission to harvest as required or a permit as required commits a third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.
- A saw palmetto berry dealer, buyer, processor, harvester, or seller that presents a false, forged, or altered document purporting to be a landowner's written permission or the permit commits a third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.
- A saw palmetto berry dealer, transporter, or processor that exchanges, offers to exchange for money or any other valuable consideration, or possesses unlawfully harvested saw palmetto berries commits a third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.
- A person convicted of a violation of this section is responsible for:
  - All reasonable costs incurred by the responding law enforcement agencies and DACS, including, but not limited to, investigative costs; and
  - Restitution to the landowner in an amount equal to the fair market value of the saw palmetto berries unlawfully harvested.
  - Defines the term "convicted" to mean that there has been a determination of guilt as a result of trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.
- Provides that these provisions do not affect any other person that legally harvests or handles saw palmetto berries from up to two plants for home or personal use.

## Rulemaking

The bill requires DACS to adopt rules to administer these provisions.

## Definitions

The bill provides the following definitions:

- "Harvest" or "harvesting" means to dig up, remove, or cut and remove saw palmetto berries from the place where they are grown.
- "Harvester" means a person, firm, or corporation that takes, harvests, or attempts to take or harvest saw palmetto berries.
- "Landowner" means:
  - The public agency administering any public lands; or
  - The person who holds legal title to the real property from which saw palmetto berries are harvested or the person having possession, control, or use of that land which has lawful authority to grant permission to harvest saw palmetto berries from the land.
- "Person" means an individual, a partnership, a corporation, an association, or any other legal entity.
- "Saw palmetto berries" means the fruit of the plant *Serenoa repens*, commonly known as the saw palmetto.
- "Saw palmetto berry dealer" means a person that purchases or otherwise obtains saw palmetto berries from a seller for the purpose of selling the saw palmetto berries at retail or for the purpose of selling the saw palmetto berries to another saw palmetto berry dealer or for both such purposes. This term also includes a person who purchases saw palmetto berries directly from a landowner for the purpose of selling the saw palmetto berries at retail.
- "Seller" means a person that exchanges or offers to exchange saw palmetto berries for money or for any other valuable consideration.

## **Livestock**

The bill revises the definition of "livestock" to include poultry.

## **Trespassing on Agricultural Land**

The bill:

- Adds lands classified as agricultural to the definition of "posted land," and allows signs for such land to be placed at each point of ingress and at each corner of the boundaries of the agricultural land.
- Creates a third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S., for trespassing on land classified as commercial agricultural property if the offender trespasses with the intent to commit a crime on such property.
- Requires such property to be legally posted and identified by signs in letters of at least 2 inches at each pedestrian and vehicle entrance in substantially the following manner: "THIS AREA IS A DESIGNATED COMMERCIAL AGRICULTURAL PROPERTY, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."
- Requires a first-time offender who is under 18 years of age at the time he or she commits the crime to be given the option of participating in a diversion program described in s. 958.12, s. 985.125, s. 985.155, or s. 985.16, F.S., or a program to which a referral is made by a state attorney under s. 985.15, F.S.
- Defines "commercial agricultural property" as property cleared of its natural vegetation or fenced for the purposes of planting, growing, harvesting, processing, raising, producing, or storing plant or animal commercial commodities.
- Makes conforming changes.

## **4-H and FFA Participation in School**



The bill provides that a student's participation in a 4-H or FFA activity is an excused absence from school. A 4-H or FFA representative must provide documentation as proof of a student's participation in a 4-H or FFA activity upon request by a school principal or the principal's designee. The 4-H representative must be officially recognized or designated by the Florida Cooperative extension Service 4-H Program as a 4-H professional or a 4-H adult volunteer.

## Reenactments

The bill reenacts:

- Section 493.6115(6), F.S., relating to weapons and firearms, to incorporate the amendment made to s. 493.6113, F.S.;
- Section 496.4055(2), F.S., relating to charitable organization or sponsor board duties, to incorporate the amendment made to s. 496.405, F.S.
- Section 559.907(1)(b), F.S., relating to the charges for motor vehicle repair estimates, to incorporate the amendment made to s. 559.905, F.S.
- Sections 468.382(6), 534.47(3), 767.01, and 767.03, F.S., relating to the definition of the term "livestock" for auctions, livestock markets, dog owner's liability for damages to livestock, and defenses for killing dogs, respectively, to incorporate the amendment made to s. 585.01, F.S.

## Effective Date

The bill provides that except as otherwise expressly provided, the bill takes effect July 1, 2024.

## B. SECTION DIRECTORY:

- Section 1: Amends s. 366.94, F.S., relating to electric vehicle charging stations.
- Section 2: Amends s. 482.111, F.S., relating to pest control operator's certificate.
- Section 3: Amends s. 482.151, F.S., relating to special identification card for performance of fumigation.
- Section 4: Amends s. 482.155, F.S., relating to limited certification for governmental pesticide applicators or private applicators.
- Section 5: Amends s. 482.156, F.S., relating to limited certification for commercial landscape maintenance personnel.
- Section 6: Amends s. 482.157, F.S., relating to limited certification for commercial wildlife management personnel.
- Section 7: Amends s. 482.161, F.S., relating to disciplinary grounds and actions; reinstatement.
- Section 8: Amends s. 482.191, F.S., relating to violation and penalty.
- Section 9: Amends s. 482.226, F.S., relating to wood-destroying organism inspection report; notice of inspection or treatment; financial responsibility.
- Section 10: Amends s. 487.031, F.S., relating to prohibited acts.
- Section 11: Amends s. 487.175, F.S., relating to penalties; administrative fine; injunction.
- Section 12: Amends s. 493.6113, F.S., relating to renewal application for licensure.
- Section 13: Creates s. 493.6127, F.S., relating to appointment of tax collectors to accept applications and renewals for licenses; fees; penalties.

- Section 14: Amends s. 496.404, F.S., relating to definitions.
- Section 15: Amends s. 496.405, F.S., relating to registration statements by charitable organizations and sponsors.
- Section 16: Amends s. 496.406, F.S., relating to exemption from registration.
- Section 17: Amends s. 496.407, F.S., relating to financial statement.
- Section 18: Amends s. 496.409, F.S., relating to registration and duties of professional fundraising consultant.
- Section 19: Amends s. 496.410, F.S., relating to registration and duties of professional solicitors.
- Section 20: Amends s. 496.4101, F.S., relating to licensure of professional solicitors and certain employees thereof.
- Section 21: Amends s. 496.411, F.S., relating to disclosure requirements and duties of charitable organizations and sponsors.
- Section 22: Amends s. 496.4121, F.S., relating to collection receptacles used for donations.
- Section 23: Amends s. 496.425, F.S., relating to solicitation of funds within public transportation facilities.
- Section 24: Amends s. 500.03, F.S., relating to definitions; construction; applicability.
- Section 25: Creates s. 500.452, F.S., relating to cultivated meat; prohibition; penalties.
- Section 26: Amends s. 507.07, F.S., relating to violations.
- Section 27: Repeals s. 531.67, F.S., relating to expiration of sections.
- Section 28: Amends s. 559.904, F.S., relating to motor vehicle repair shop registration; application; exemption.
- Section 29: Amends s. 559.905, F.S., relating to written motor vehicle repair estimate and disclosure statement required.
- Section 30: Amends s. 570.69, F.S., relating to definitions.
- Section 31: Amends s. 570.691, F.S., relating to direct-support organization.
- Section 32: Amends s. 570.692, F.S., relating to Florida Agricultural Museum.
- Section 33: Creates s. 581.189, F.S., relating to dealing in, buying, transporting, and processing saw palmetto berries.
- Section 34: Amends s. 585.01, F.S., relating to definitions.
- Section 35: Amends s. 790.0625, F.S., relating to appointment of tax collectors to accept applications for a concealed weapon or firearm license; fees; penalties.
- Section 36: Amends s. 810.011, F.S., relating to definitions.
- Section 37: Amends s. 810.09, F.S., relating to trespass on property other than structure or conveyance.

- Section 38: Amends s. 1003.24, F.S., relating to parents responsible for attendance of children; attendance policy.
- Section 39: Amends s. 379.3004, F.S., relating to voluntary Authorized Hunter Identification Program.
- Section 40: Amends s. 812.014, F.S., relating to theft.
- Section 41: Amends s. 921.0022, F.S., relating to criminal Punishment Code; offense severity ranking chart.
- Section 42: Reenacts s. 493.6115, F.S., relating to weapons and firearms.
- Section 43: Reenacts s. 496.4055, F.S., relating to charitable organization or sponsor board duties.
- Section 44: Reenacts s. 559.907, F.S., relating to charges for motor vehicle repair estimate; requirement of waiver of rights prohibited.
- Section 45: Reenacts s. 468.382, F.S., relating to definitions.
- Section 46: Reenacts s. 534.47, F.S., relating to definitions.
- Section 47: Reenacts s. 767.01, F.S., relating to dog owner's liability for damages to persons, domestic animals, or livestock.
- Section 48: Reenacts s. 767.03, F.S., relating to good defense for killing dog.
- Section 49: Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

See Fiscal Comments.

#### 2. Expenditures:

See Fiscal Comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

The bill may have an indeterminate positive fiscal impact to local governments as it relates to the authorization of tax collectors to, on behalf of DACS, accept applications for concealed weapons or firearms and charge a convenience fee.

#### 2. Expenditures:

The bill may have an indeterminate fiscal impact on local governments as it relates to processing applications for concealed weapons or firearms on behalf of DACS.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate fiscal impact on the private sector.

## D. FISCAL COMMENTS:

### **EV Charging Stations**

Preempting the regulation of EV charging stations to the state may create uniformity in the regulation of such facilities and reduce the negative fiscal impact on private businesses resulting from disparate regulations in local jurisdictions.

### **Pest Control**

Allowing certain certificateholders to apply less toxic chemicals may have a positive fiscal impact on these businesses.

Allowing certain certificateholders who apply chemicals flexibility in the use of smaller chemical spray equipment may have a positive fiscal impact on the private sector.

Reducing record-keeping requirements for certain certificateholders who apply chemicals that are low in toxicity may reduce expenditures related to such requirements.

Reducing continuing education requirements for certain certificateholders may have a positive fiscal impact on these individuals.

Requiring written documentation from certain certificateholders to the property owner after each inspection or treatment for the presence or absence of wood-destroying organisms may:

- Help consumers protect their structures and reduce costs related to such infestations.
- Create an indeterminate cost to the businesses resulting from providing the documentation.

Prohibiting certain certificates from operating past their expiration date, and extending recertification grace periods, may prevent the performance of unlicensed work and reduce related costs to the licensee and consumers that may occur otherwise.

Making it a violation, and authorizing DACS to take administrative action, for falsely swearing or affirming false statements on an application for pest control or pesticide licensure, or cheating on such licensure examinations, may:

- Create an indeterminate cost to DACS for administration and enforcement.
- Reduce costs related to bad work performed by unqualified licensees.

### **Firearm Licensing**

Allowing a Class "G" licensee to qualify for up to two calibers of firearms in one 4-hour firearm requalification class may reduce administrative costs to DACS, the licensees, and license applicants.

### **Appointment of Tax Collectors for Licenses Issued Under Ch. 493, F.S.**

Expanding the types of private security, private investigative and recovery services licenses that tax collectors are allowed to issue may reduce administrative costs to DACS, the licensees, and license applicants.

### **Appointment of Tax Collectors to Accept Applications for Concealed Weapon or Firearm License**

Authorizing certain appointed tax collectors to collect certain fees and provide certain services for concealed weapon or firearm licenses on behalf of DACS may:

- Reduce administrative expenses for DACS, the licensees, and license applicants; and
- Have an indeterminate positive fiscal impact on local tax collectors.

### **Solicitation of Contributions Act**

Revising certain information that charitable organizations, sponsors, professional fundraising consultants, and professional solicitors are required to provide to DACS may create efficiencies and a positive fiscal impact for DACS and charitable organizations.

### **Cultivated Meat**

Prohibiting the manufacture for sale, sale, hold or offer for sale, or distribution of cultivated meat in the state, and creating penalties for violations, may:

- Reduce the impact that such sales may have on the state's livestock industry.
- Create an indeterminate negative fiscal impact to DACS for administration and enforcement.
- Indeterminate jail bed impact by creating a new misdemeanor.

### **Household Moving Services**

Prohibiting movers from placing a shipper's goods in a self-service storage unit owned by anyone other than the mover, may:

- Protect the shipper's property and streamline the moving process.
- Create an indeterminate positive fiscal impact to these businesses and consumers.

### **Motor Vehicle Repair Shop Registration and Written Repair Estimates**

Revising the information that must be provided to DACS on a motor vehicle repair shop registration application, requiring the registration fee to be calculated for each location, and increasing the cost of repair work which requires a motor vehicle repair shop to provide a customer with a written repair estimate, may reduce costs to the businesses by more accurately representing the scale of the businesses and the diagnostic costs.

### **Saw Palmetto Berries**

Criminalizing the destroying, harvesting, or selling saw palmetto berries, on private or public land, may:

- Prevent illegal harvesting of such fruit and reduce related costs to the state and the saw palmetto berry industry.
- Create an indeterminate negative fiscal impact to DACS for administration and enforcement.
- Indeterminate prison and jail bed impact by creating new misdemeanor and felony offenses.

Requiring harvesters to obtain written permission from the landowner and a permit from DACS may create an indeterminate negative impact to the harvesters, and to DACS resulting from administrative costs.

### **Livestock**

Including poultry in the definition of "livestock" in ch. 585, part II, F.S., under the DACS Division of Animal Industry, may:

- Protect the state and private sector from related animal pests and diseases, thereby reducing costs to the state and private sector that would result otherwise.
- Increase costs indeterminately to DACS for related oversight of an additional industry, only to the extent they are not already incurring such expenses.

### **Trespassing on Agricultural Land**

Reducing the number of trespassing signs required for lands classified as commercial agricultural property, and increasing criminal penalties for trespassing on such land with intent to commit a crime, may reduce related costs to such landowners and help protect the state's food supply.

The bill may lead to more arrests of persons who are trespassing but did not see a trespassing sign. This may result in an indeterminate jail bed impact.

### 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:

Article VII, s. 19 of the Florida Constitution requires the authorization of a state tax or fee be contained in a separate bill that contains no other subject and be approved by 2/3 of the membership of each house of the Legislature. These provisions do not apply to any tax or fee authorized to be imposed by a county. This bill authorizes county tax collectors approved by DACS to collect certain fees for processing applications.

#### B. RULE-MAKING AUTHORITY:

The bill requires DACS to adopt rules establishing penalties for examinees who violate provisions related to swearing or affirming a false statement, and cheating on examinations, for certain pest control and pesticide licenses.

The bill requires DACS to establish by rule the type of new, renewal, or replacement licenses a tax collector appointed to accept ch. 493, F.S., applications, is authorized to accept.

The bill authorizes DACS to adopt rules to implement the provisions related to cultivated meat.

The bill requires law enforcement agencies that seize unlawfully harvested saw palmetto berries to submit certain information on seized items annually to DACS, in the manner prescribed by DACS rule.

The bill authorizes DACS to adopt rules to administer the provisions related to saw palmetto berries.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 12, 2024, the Agriculture & Natural Resources Appropriations Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment clarifies that “manufacture” means “manufacture for sale.”

On February 22, 2024, the Infrastructure Strategies Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Reverted back to a 30-day grace period for various licensees, cardholders, and certificate holders.
- Specified when certified pest control operators must notify consumers of the presence of wood-destroying organisms.
- Revised the charitable organization exemption threshold to reference contributions rather than revenue.
- Removed the requirement for charitable organizations to provide DACS with bank account numbers.
- Increased DACS’ statutory threshold for repairing and building structures from \$250,000 per structure to \$500,000 per structure.

This analysis is drafted to the committee substitute as approved by the Infrastructure Strategies Committee.