

CHAPTER 97-220

Committee Substitute for Committee Substitute for House Bill No. 907

An act relating to the Department of Agriculture and Consumer Services; amending s. 581.011, F.S.; revising definition of the term “noxious weed”; amending s. 581.182, F.S.; renaming an advisory committee; repealing s. 3, ch. 92-153, Laws of Florida; amending s. 581.185, F.S.; creating the Endangered or Threatened Native Flora Conservation Grants Program in the Department of Agriculture and Consumer Services to provide grants for the protection, curation, propagation, reintroduction, and monitoring of endangered or threatened native flora; clarifying the scope of the Regulated Plant Index; abrogating the repeal of s. 581.186, F.S., relating to the Endangered Plant Advisory Council; amending s. 589.011, F.S.; authorizing the Division of Forestry to prohibit certain activities and providing penalties; authorizing leasing of property and structures to telecommunications providers; authorizing fees; creating s. 589.012, F.S.; creating the Friends of Florida State Forests Program; providing purpose; creating s. 589.013, F.S.; authorizing a direct-support organization for the Friends of Florida State Forests Program; amending s. 590.01, F.S.; providing Division of Forestry responsibility for forest and wild land fire protection; amending s. 590.02, F.S.; clarifying that a specific appropriation is not needed to build certain structures; amending s. 590.026, F.S.; clarifying requirements for prescribed burning; amending s. 601.58, F.S.; revising procedures relating to approval of a citrus fruit dealer’s license application; amending s. 601.60, F.S.; authorizing the department to issue a provisional license; amending s. 601.67, F.S.; authorizing a fine against a person who operates as a citrus fruit dealer without a license; amending s. 602.065, F.S.; revising provisions relating to the deposit of certain funds for the eradication of citrus canker; amending s. 604.15, F.S.; revising definition of the term “agricultural products”; amending s. 500.03, F.S.; providing definitions relating to food products; reenacting s. 500.04(4) and (6), F.S., relating to prohibited acts, to incorporate amendments to ss. 500.12 and 500.147, F.S., in references; amending s. 500.11, F.S., relating to misbranded food; clarifying language; adding bottled water requirements; amending s. 500.12, F.S., relating to food and building permits; including existing fees for permits for operating bottled water plants or packaged ice plants; providing requirements; amending s. 500.121, F.S., relating to disciplinary procedures; providing for a fine for mislabeling; amending s. 500.147, F.S.; inserting inspection language for bottled water plants and packaged ice plants; authorizing a food safety inspection pilot program; providing criteria for the program; amending s. 500.171, F.S.; revising provisions authorizing an injunction; reenacting s. 500.177(1), F.S.; providing a penalty; amending s. 500.459, F.S.; providing definitions relating to water vending machines and conforming a requirement to the State

Plumbing Code; amending s. 500.511, F.S., relating to fees, enforcement, and preemption; conforming cross references and deleting reference to certain water and ice operators and dealers; amending s. 526.3135, F.S.; clarifying compilation of a report; amending s. 531.44, F.S.; establishing authority to set procedures for verifying acceptable pricing practices; amending s. 531.50, F.S.; authorizing penalties for violation of provisions relating to weights and measures; providing for deposit of funds; amending s. 534.011, F.S.; providing for deposit of fees relating to the inspection and protection of livestock; amending s. 253.68, F.S.; modifying a requirement that precludes the Board of Trustees of the Internal Improvement Trust Fund from granting a lease for aquaculture activities in areas objected to by resolution of the county commission; repealing ss. 500.453, 500.455, 500.457, and 500.509, F.S., relating to bottled water and packaged ice regulation; providing for a state facility designation; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (18) of section 581.011, Florida Statutes, is amended to read:

581.011 Definitions.—As used in this chapter:

(18) “Noxious weed” means any living stage, including, but not limited to, seeds and productive parts, of a parasitic or other plant of a kind, or subdivision of a kind, which may be a serious agricultural threat in Florida or have a negative impact on the plant species protected under s. 581.185.

Section 2. Paragraphs (b), (f), and (g) of subsection (4) of section 581.182, Florida Statutes, are amended to read:

581.182 Citrus plants and citrus plant products from other states, territories, or foreign countries.—

(4) In considering an application for a permit to introduce into this state from another state, territory, or foreign country any citrus plant or citrus plant product or propagation therefrom, the department shall consider the following guidelines:

(b) The clones introduced must:

1. Have been evaluated by the Citrus Budwood ~~Technical Advisory Registration~~ Committee as having desirable and superior characteristics to warrant testing under Florida field conditions prior to possible release as a new clone; or

2. Be of a type desirable:

a. For research; or

b. As a breeding stock to be used by the agricultural experiment stations in Florida.

(f) When tests are completed, new clones will be evaluated by the Citrus Budwood ~~Technical Advisory Registration~~ Committee. If the committee recommends the release and distribution of any clone to the industry, a portion of this clone will be validated and maintained in a Division of Plant Industry planting.

(g) The director is authorized to waive permit requirements for certain species of plants of the subfamilies Aurantioideae, Rutoideae, or Toddalioideae which the Citrus Budwood ~~Technical Advisory Registration~~ Committee determines pose no threat of introducing into the state a citrus plant pest.

Section 3. Paragraph (d) is added to subsection (9) of section 581.185, Florida Statutes, and subsections (11) and (12) are added to said section, to read:

581.185 Preservation of native flora of Florida.—

(9) DUTIES AND AUTHORITY OF DEPARTMENT.—The department shall:

(d) Have the authority to issue grants to support the preservation and propagation of native plant species of the state that are endangered or threatened as defined in this section.

(11) GRANTS PROGRAM.—

(a) There is created within the department an Endangered or Threatened Native Flora Conservation Grants Program to contract with qualified corporations in the private sector for the purpose of providing recognition of those flora native to the state that are endangered or threatened; and, to encourage, within a controlled program, the protection, curation, propagation, reintroduction, and monitoring of native flora that are identified as endangered or threatened.

(b) The Division of Plant Industry in the Department of Agriculture and Consumer Services may accept and administer moneys appropriated to it for providing grants to qualifying nonprofit corporations for the protection, curation, propagation, reintroduction, and monitoring of endangered or threatened native flora.

(c) A qualified corporation may apply for a grant of state funds to support programs designed to protect, conserve, propagate, reintroduce, and monitor endangered or threatened native flora. For the purposes of this section, a “qualified corporation” is a corporation that is designated a not-for-profit corporation under s. 501(c)(3) of the Internal Revenue Code of 1954, and which is described in, and allowed to receive contributions under, s. 170 of the Internal Revenue Code of 1954, and which is a corporation not-for-profit incorporated under chapter 617, and which can demonstrate through experience with existing conservation programs the ability to protect, conserve, propagate, reintroduce, and monitor endangered and threatened native flora.

(d) The department shall establish, by rule, criteria for the award of grants, including criteria evaluating:

1. Existing conservation experience with endangered or threatened native flora;
2. Existing facilities appropriate for program needs;
3. Existing programs administered by the corporation that successfully protect, conserve, propagate, reintroduce, and monitor native flora;
4. Existing recordkeeping and documentation that is accessible to national databases of endangered and threatened plants;
5. Qualified staff with demonstrated experience in native plant conservation;
6. Documentation of collaboration with related state, national, or international conservation programs;
7. Successful experience propagating and reintroducing endangered or threatened native flora;
8. Public exhibit programs publicizing the conservation of native species and the importance of the conservation effort; and
9. Fiscal stability and ability to match grant funding.

(e)1. Upon appropriation by the Legislature of funds for the Endangered or Threatened Native Flora Grants Program, the department shall execute a contract with each organization, which must contain information relative to the program and other provisions considered necessary by the department for the administration of the program.

2. Each recipient corporation must submit an annual report to the Division of Plant Industry detailing the expenditure of funds.

3. The department may grant moneys in advance for programs for which grants are issued, under a grant agreement or a contract.

(f) Each grant recipient shall cause an annual postaudit to be conducted by an independent certified public accountant. The annual audit report must be submitted to the department for review. The department may require from the grant recipient any detail or supplemental data relative to the operation of the corporation.

(g) The department shall adopt rules necessary to administer this subsection.

(12) REGULATED PLANT INDEX.—The Regulated Plant Index is to be used solely to restrict unlawful harvesting of native flora without the authorization of the landowner. The Regulated Plant Index is not to be used to regulate construction or other land alteration activities on any property.

Section 4. Section 3 of chapter 92-153, Laws of Florida, is hereby repealed.

Section 5. Subsections (5) and (6) are added to section 589.011, Florida Statutes, to read:

589.011 Use of state forest lands; fees; rules.—

(5) The Division of Forestry may prohibit on state forest lands, or any lands leased by or otherwise assigned to the division for management purposes, activities that interfere with management objectives, create a nuisance, or pose a threat to public safety. Such prohibited activities must be posted with signs not more than 500 feet apart along, and at each corner of, the boundaries of the land. The signs must be placed along the boundary line of posted land in a manner and in such position as to be clearly noticeable from outside the boundary line. A person who violates the provisions of this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(6) The Division of Forestry may enter into contracts or agreements, with or without competitive bidding or procurement, to make available, on a fair, reasonable, and nondiscriminatory basis, property and other structures under division control for the placement of new facilities by any wireless provider of mobile service as defined in 47 U.S.C. s. 153(n) or 47 U.S.C. s. 332(d) or any telecommunications company as defined in s. 364.02 when it is determined to be practical and feasible to make such property or other structures available. The division may, without adopting a rule, charge a just, reasonable, and nondiscriminatory fee for the placement of the facilities, payable annually, based on the fair market value of space used by comparable communications facilities in the state. The division and a wireless provider or telecommunications company may negotiate the reduction or elimination of a fee in consideration of services provided to the division by the wireless provider or telecommunications company. All such fees collected by the division shall be deposited in the Incidental Trust Fund.

Section 6. Section 589.012, Florida Statutes, is created to read:

589.012 Friends of Florida State Forests Program.—The Friends of Florida State Forests Program is established within the Department of Agriculture and Consumer Services. Its purpose is to provide support and assistance for existing and future programs of the Division of Forestry. These programs must be consistent with the division's mission statement which is incorporated by reference. The purpose of the program is to:

(1) Conduct programs and activities related to environmental education, fire prevention, recreation, and forest management.

(2) Identify and pursue methods to provide resources and materials for these programs.

(3) Establish a statewide method to integrate these resources and materials.

Section 7. Section 589.013, Florida Statutes, is created to read:

589.013 Direct-support organization.—

(1) The Department of Agriculture and Consumer Services is authorized to create a direct-support organization to provide assistance to the Friends of Florida State Forests Program of the Division of Forestry.

(2) The direct-support organization shall be governed by the provisions of ss. 570.902 and 570.903 for the direct or indirect benefit of the Division of Forestry or individual units within the division.

Section 8. Section 590.01, Florida Statutes, is amended to read:

590.01 Protection of forests and wild land.—The Division of Forestry of the Department of Agriculture and Consumer Services has the primary responsibility for forest and wild land fire protection. The division shall provide leadership and direction in the evaluation, coordination, and monitoring of wildfire management and protection, which reduces threats to life and property, forest and wild land resources, and other related values at risk. The division shall promote natural resource management and wild land and forest fuel reduction through the use of prescribed fire. The division may designate and establish protection districts in areas declared to need additional protection. Whenever it shall appear to the Division of Forestry of the Department of Agriculture and Consumer Services, hereinafter called the division, from investigation, hearing or otherwise that areas in the state are in need of special protection from forest fires, the said division may designate and establish a forest protection district in such areas. The limits of each such fire protection district shall be defined by the division, and public notice of its establishment shall be published in some one or more newspapers of general circulation in the region affected, once each week for 3 successive weeks (three insertions), and such additional publicity shall be given to the establishment of said district as the division may deem necessary.

Section 9. Subsection (4) of section 590.02, Florida Statutes, 1996 Supplement, is amended to read:

590.02 Division powers, authority, and duties; law enforcement; liability; building structures.—

(4) The department may build structures, notwithstanding chapters 216 and chapter 255, not to exceed a cost of \$50,000 per structure from existing resources on forest lands, federal excess property, and unneeded existing structures. These structures must meet all applicable building codes.

Section 10. Subsection (5) of section 590.026, Florida Statutes, is amended to read:

590.026 Prescribed burning; requirements; liability.—

(5) REQUIREMENTS; LIABILITY.—

(a) Prescribed burning conducted under the provisions of this section shall:

1. Be accomplished only when at least one certified prescribed burn manager is present on site while the burn is being conducted.
2. Require that a written prescription be prepared prior to receiving authorization to burn from the Division of Forestry.
3. Be considered in the public interest and shall not constitute a public or private nuisance when conducted pursuant to state air pollution statutes and rules applicable to prescribed burning.
4. Be considered a property right of the property owner if naturally occurring vegetative fuels are used and when conducted pursuant to the requirements of this section subsection.

(b) No property owner or his agent, conducting a prescribed burn pursuant to the requirements of this section subsection, shall be liable for damage or injury caused by fire or resulting smoke, unless negligence is proven.

Section 11. Subsection (1) of section 601.58, Florida Statutes, is amended to read:

601.58 Application approval or disapproval.—

(1) Each citrus fruit dealer's license application which is approved, or approved subject to conditions, shall be forwarded immediately to the Department of Agriculture and Consumer Services, ~~Division of Fruit and Vegetables, Bureau of Citrus License and Bond~~, which shall, upon satisfaction of the stated conditions, if any are endorsed thereon, issue to the applicant an appropriate license as prescribed in s. 601.60.

Section 12. Subsection (1) of section 601.60, Florida Statutes, is amended to read:

601.60 Issuance of dealers' licenses.—

(1) Whenever an application bears the approved endorsement of the Department of Citrus and satisfactions of conditions of approval, if any, and the applicant has paid the prescribed fee, the Department of Agriculture and Consumer Services shall issue to such applicant a license, as approved by the Department of Citrus, which shall entitle the licensee to do business as a citrus fruit dealer during the effective term of such license in accordance with s. 601.55 or until such license may be suspended or revoked by the Department of Agriculture and Consumer Services in accordance with the provisions of law. The Department of Agriculture and Consumer Services may issue a provisional license for a period of no longer than 1 year to an applicant who is under investigation for an action that would constitute a violation of this chapter or has pending against such applicant an administrative or civil proceeding which alleges an action that would constitute a violation of this chapter. The department shall establish by rule requirements for renewal of a provisional license. When the investigation is com-

plete or the pending proceeding has been disposed of, the department may issue a regular license under this section.

Section 13. Subsections (2) and (4) of section 601.67, Florida Statutes, are renumbered as subsections (3) and (5), respectively, subsection (3) is renumbered as subsection (4) and amended, and a new subsection (2) is added to said section, to read:

601.67 Disciplinary action by Department of Agriculture and Consumer Services against citrus fruit dealers.—

(2) The department may impose a fine not exceeding \$100,000 per violation against any person who operates as a citrus fruit dealer without a current citrus fruit dealer license issued by the department pursuant to s. 601.60. In addition, the department may order such person to cease and desist operating as a citrus fruit dealer without a license. An administrative order entered by the department under this subsection may be enforced pursuant to s. 601.73.

(4)(3) Any fine imposed pursuant to subsection (1), ~~or~~ subsection (2), or subsection (3), when paid, shall be deposited by the Department of Agriculture and Consumer Services into its General Inspection Trust Fund.

Section 14. Subsection (9) of section 602.065, Florida Statutes, 1996 Supplement, is amended to read:

602.065 Citrus canker claims; procedures.—

(9) The Department of Legal Affairs shall provide representation and assistance to the Office of Citrus Canker Claims and may provide representation to any state agency affected by this act. The Department of Legal Affairs shall also take all necessary and appropriate action determined to be available to ensure that the Federal Government releases to the State of Florida any available funds which reimburse the state the Federal Government's share of the costs arising from the eradication of citrus canker. All funds received by the state from the Federal Government to reimburse the state for its share of the costs arising from the eradication of the citrus canker shall be deposited in the Plant Industry Trust Fund and shall be used only for the eradication of citrus canker. ~~divided and deposited in the following proportions:~~

(a) ~~Fifty percent into the General Revenue Fund; and~~

(b) ~~Fifty percent into the Citrus Advertising Trust Fund.~~

Section 15. Subsection (3) of section 604.15, Florida Statutes, is amended to read:

604.15 Dealers in agricultural products; definitions.—For the purpose of ss. 604.15-604.34, the following words and terms, when used, shall be construed to mean:

(3) "Agricultural products" means the natural products of the farm, nursery, grove, orchard, vineyard, garden, and apiary (raw or manufactured);

livestock; milk and milk products; poultry and poultry products; the fruit of the saw palmetto (meaning the fruit of the *Serenoa repens*); and limes (meaning the fruit *Citrus aurantifolia*, variety Persian, Tahiti, Bearss, or Florida Key limes) produced in the state, except tobacco, tropical foliage, sugarcane, and citrus other than limes.

Section 16. Paragraphs (b) through (p) of subsection (1) of section 500.03, Florida Statutes, are redesignated as paragraphs (f) through (t), respectively, paragraphs (q), (r), and (s) are redesignated as paragraphs (x), (y), and (z), respectively, and new paragraphs (b), (c), (d), (e), (u), (v), and (w) are added to said subsection to read:

500.03 Definitions of terms; construction; applicability.—

(1) For the purpose of this chapter, the term:

(b) “Approved laboratory” or “certified laboratory” means a laboratory of the department, a commercial laboratory certified by the Department of Health, or a competent commercial laboratory certified by an agency of another state or the United States Environmental Protection Agency to perform analyses of drinking water in accordance with the water quality testing procedures adopted by the United States Environmental Protection Agency.

(c) “Approved source” as it relates to water means a source of water, whether it is a spring, artesian well, drilled well, municipal water supply, or any other source, that complies with the Federal Safe Drinking Water Act, Pub. L. No. 93-523, as amended.

(d) “Bottled water” means a beverage as described in Title 21 of the Code of Federal Regulations, Part 165 (1996), that is processed in compliance with Title 21 of the Code of Federal Regulations, Part 129 (1996).

(e) “Bottled water plant” means a food establishment in which bottled water is prepared for sale.

(u) “Natural water” means bottled spring water, artesian well water, or well water that has not been altered with water from another source or that has not been modified by mineral addition or deletion, except for alteration that is necessary to treat the water through ozonation or an equivalent disinfection and filtration process.

(v) “Packaged ice” means ice that is enclosed in a container and is offered for sale for human consumption or for other use by the consumer. The term does not include ice that is manufactured by any business licensed under chapter 381 or chapter 509.

(w) “Packaged ice plant” means a food establishment in which packaged ice is manufactured or processed.

Section 17. For the purpose of incorporating the amendments to sections 500.12 and 500.147, Florida Statutes, in references thereto, subsections (4) and (6) of section 500.04, Florida Statutes, are reenacted to read:

500.04 Prohibited acts.—The following acts and the causing thereof within the state are prohibited:

(4) The sale, delivery for sale, holding for sale, or offering for sale of any article in violation of s. 500.12.

(6) The refusal to permit entry or inspection, or to permit the taking of a sample, as authorized by s. 500.147.

Section 18. Paragraph (g) of subsection (1) of section 500.11, Florida Statutes, is amended, and paragraph (o) is added to said subsection, to read:

500.11 Food deemed misbranded.—

(1) A food is deemed to be misbranded:

(g) If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by statute or by rules as provided by s. 500.09, unless:

1. It conforms to such definition and standard; and

2. Its label bears the name of the food specified in the definition and standard and, insofar as may be required by such rules, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food.

(o) If it is bottled water and its label bears a corporate name, brand name, or trademark containing the word “spring,” “springs,” “well,” “artesian well,” “natural,” or any derivative of those words without stating on the label the source of the water in typeface at least equal to the size of the typeface of the corporate name, brand name, or trademark, if the source of the water is different from the source indicated in the corporate name, brand name, or trademark.

Section 19. Paragraph (b) of subsection (1) of section 500.12, Florida Statutes, is amended, paragraphs (c) and (d) of said subsection are redesignated as paragraphs (e) and (f), respectively, and new paragraphs (c) and (d) are added to said subsection, to read:

500.12 Food permits; building permits.—

(1)

(b) An application for a food permit from the department must be accompanied by a fee in an amount determined by department rule, which may not exceed \$350, except that the fee accompanying an application for a food permit for operating a bottled water plant may not exceed \$1,000 and the fee accompanying an application for a food permit for operating a packaged ice plant may not exceed \$250. The fee for operating a bottled water plant or a packaged ice plant shall be set by rule of the department in an amount sufficient to meet, but not exceed, the total direct and indirect costs incurred by the department in carrying out its permitting, inspection, sampling, enforcement, and administrative responsibilities for those operations. Food

permits must be renewed annually on or before January 1. If an application for renewal of a food permit is not received by the department within 30 days after its due date, a late fee, in an amount not exceeding \$100, must be paid in addition to the food permit fee before the department may issue the food permit. The moneys collected shall be deposited in the General Inspection Trust Fund.

(c) For bottled water plants:

1. Water that is transported into the state and that is bottled before or after importation into the state must be bottled, labeled, handled, and otherwise processed and sold according to the provisions of this chapter.

2. An application for a food permit for operating a bottled water plant must state the location of the bottled water plant, the source of the water, and any other information considered necessary by the department to verify compliance with the safety, quality, and labeling requirements of this chapter.

(d) For packaged ice plants:

1. Packaged ice that is transported into the state and that is packaged before or after importation into the state must be packaged, labeled, handled, and otherwise processed and sold according to the provisions of this chapter.

2. An application for a food permit for operating a packaged ice plant must state the location of the packaged ice plant, the source of the water, the treatment the water received prior to being made into ice and packaged, and any other information considered necessary by the department to verify compliance with the safety, quality, and labeling requirements of this chapter.

(4)(a) The department may suspend immediately upon notice any permit issued under this section if it finds that any of the conditions of the permit have been violated. The holder of a permit so suspended may at any time apply for the reinstatement of such permit; and the department shall, immediately after prompt hearing and an inspection of the establishment, reinstate such permit if the department finds that adequate measures have been taken to comply with and maintain the conditions of the permit, as originally issued, or as amended.

(b) The department shall have access to any food establishment for the purpose of ascertaining compliance with this section. Denial of access for such inspection is a ground for suspending the permit until access to the food establishment is freely given by the operator.

Section 20. Section 500.121, Florida Statutes, is amended to read:

500.121 Disciplinary procedures.—

(1) In addition to the suspension procedures provided in s. 500.12, the department may impose a fine not exceeding \$5,000 against any retail food

store or food establishment that has violated this chapter, which fine, when imposed and paid, shall be deposited by the department into the General Inspection Trust Fund. The department may revoke or suspend the permit of any such retail food store or food establishment if it is satisfied that the retail food store or food establishment has:

(a) Violated any of the provisions of this chapter.

(b) Violated or aided or abetted in the violation of any law of this state governing or applicable to retail food stores or food establishments or any lawful rules of the department.

(c) Knowingly committed, or been a party to, any material fraud, misrepresentation, conspiracy, collusion, trick, scheme, or device whereby any other person, lawfully relying upon the word, representation, or conduct of a retail food store or food establishment, acts to his injury or damage.

(d) Committed any act or conduct of the same or different character than that enumerated which constitutes fraudulent or dishonest dealing.

(2) Any manufacturer, processor, packer, or distributor who misrepresents or mislabels the country of origin of any food may, in addition to any penalty provided in this chapter, be subject to an additional administrative fine of up to \$10,000 per violation.

~~(3)~~(2) Any administrative order made and entered by the department imposing a fine pursuant to this section shall specify the amount of the fine and the time limit for payment thereof, not exceeding 15 days, and, upon failure of the permitholder to pay the fine within that time, the permit is subject to suspension.

~~(4)~~(3) In any court proceeding relating to administrative orders, the burden of proving violations of this chapter and of upholding administrative orders is with the department.

Section 21. Subsection (3) of section 500.147, Florida Statutes, is renumbered as subsection (5), and new subsections (3), (4), and (6) are added to said section to read:

500.147 Inspection of food establishments and vehicles; food safety pilot program.—

(3) For bottled water plants:

(a) Bottled water must be from an approved source. Bottled water must be processed in conformance with Title 21 of the Code of Federal Regulations, Part 129 (1996), and must conform to Title 21 of the Code of Federal Regulations, Part 165 (1996). A person operating a bottled water plant shall be responsible for all water sampling and analyses required by this chapter.

(b) All microbiological, chemical, physical, or radiological testing and analyses of source water and finished product required by this chapter must be performed by an approved laboratory. Records of the sampling and analy-

ses must be maintained on file at the plant for not less than 2 years and made available to the department upon request.

(4) For packaged ice plants:

(a) Water used in packaged ice must be from an approved source. The finished product must meet the primary water quality standards established under the Federal Safe Drinking Water Act, Pub. L. No. 93-523, as amended. A person operating a packaged ice plant shall be responsible for all water sampling and analyses required by this chapter.

(b) All packaged ice plants must submit to an approved laboratory, once every 3 months, a sample of each type of finished product for microbiological analysis. The quarterly laboratory analysis must include testing for fecal and total coliform organisms. Total coliforms must not be greater than 2.2 organisms/100 ml. using the most probable number method or not greater than 1 organism/100 ml. using the membrane filtration method. Packaged ice must have no fecal coliform-positive samples. All microbiological, chemical, physical, or radiological analyses required by this chapter must be performed by an approved laboratory.

(c) All records of sampling and analyses of source water and finished product must be maintained by the plant for a period of not less than 2 years and made available to the department upon request.

(6) The department is authorized to initiate a food safety pilot program establishing a special, documented food inspection program based on sound science principles of the Hazard Analysis Critical Control Point (HACCP) system and involving cooperative compliance efforts of both the department and the food establishment to assure consumers a safe, wholesome, and properly labeled food supply. A food establishment shall be eligible for such a pilot program only if program criteria are met. Criteria used to establish this special program include, but are not limited to, the following:

(a) A good inspection history over a specified time period.

(b) Certified food manager activities demonstrated to be effective in assessing food safety practices and correcting deficiencies at the food establishment.

(c) An active food training program in place for employees.

(d) "Self inspection" records of the food establishment made available for review by the department.

(e) Written sanitation standard operation procedures in place and the food establishment's verification records made available for review by the department.

(f) Freezer/refrigeration units and hot-cold temperature logs or recording charts made available for review by the department.

(g) Records of corrective action to resolve food safety deficiencies made available for review by the department.

Section 22. Section 500.171, Florida Statutes, is amended to read:

500.171 Injunction to restrain violation.—In addition to the remedies provided in this chapter and notwithstanding the existence of any adequate remedy at law, the department may bring an action to enjoin the violation or threatened violation of any provision of this chapter, or rule adopted under this chapter, in the circuit court of the county in which the violation occurred or is about to occur. Upon the department’s presentation of competent and substantial evidence to the court of the violation or threatened violation, the court shall immediately issue the temporary or permanent injunction sought by the department. The injunction shall be issued without bond. A single act in violation of any provision of this chapter shall be sufficient to authorize the issuance of an injunction. In addition to the remedies herein provided, the department may apply to a circuit court for, and such court shall have jurisdiction upon hearing and for cause shown to grant, a temporary or permanent injunction restraining any person from violating any provision of s. 500.04, irrespective of whether or not there exists an adequate remedy at law.

Section 23. Subsection (1) of section 500.177, Florida Statutes, is reenacted to read:

500.177 Penalty for violation of s. 500.04; dissemination of false advertisement.—

(1) Any person who violates any provision of s. 500.04 is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; but, if the violation is committed after a conviction of such person under this section has become final, such person is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 24. Subsections (3) and (5) of section 500.459, Florida Statutes, are renumbered as subsections (4) and (6), respectively, subsections (2), (4), and (6) are renumbered and amended, and a new subsection (2) is added to said section, to read:

500.459 Water vending machines.—

(2) DEFINITIONS.—

(a) “Sanitized” means treated in conformity with Title 21 of the Code of Federal Regulations, Section 110.3 (1996).

(b) “Vended water” means water dispensed by means of a water vending machine.

(c) “Water vending machine” means a self-service device that, upon insertion of a coin or token or upon receipt of payment by other means, dispenses a serving of water into a container.

(d) “Water vending machine operator” means a person who owns, leases, or manages, or is otherwise responsible for, the operation of a water vending machine.

(3)(2) PERMITTING REQUIREMENTS.—

(a) Each person or public body that establishes, maintains, or operates any water vending machine in the state must secure an operating permit from the department each year.

(b) An application for an operating permit must be made in writing to the department on forms provided by the department and must be accompanied by a fee as provided in subsection (4)(3). The application must state the location of each water vending machine, the source of the water to be vended, the treatment the water will receive prior to being vended, and any other information considered necessary by the department.

(5)(4) OPERATING STANDARDS.—

(a) A water vending machine operator must obtain a permit prior to operating any water vending machine.

(b) Each water vending machine must be located indoors or otherwise protected against tampering and vandalism and must be located in an area that can be maintained in a clean condition and in a manner that avoids insect and rodent harborage. The floor upon which the water vending machine is located should be smooth and of cleanable construction.

(c) The source of water supply must be an approved public water system.

(d) Each water vending machine must have a ~~an approved~~ backflow prevention device that conforms with s. 553.06 and an adequate system for collecting and handling dripping, spillage, and overflow of water.

(e) All parts and surfaces of a water vending machine with which water comes into contact must be made of nontoxic, corrosion-resistant, nonabsorbent material capable of withstanding repeated cleaning and sanitizing treatments.

(f) Each water vending machine must be maintained in a clean and sanitary condition, free from rust, dirt, and vermin.

(g) The vended water must receive treatment and postdisinfection according to approved methods established by rule of the department. Activated carbon, if used, must comply with specifications for granular activated carbon used in water treatment applications as established by rule of the department.

(h) The vended water may not be described as “purified water” unless the water conforms to the definition of that term. Further, a water vending machine operator must not claim that the vended water has medicinal or health-giving properties and must not describe any vended water as “spring water.”

(i) The operator shall place on each water vending machine, in a position clearly visible to customers, the following information: the name and address of the operator; the operating permit number; the fact that the water is obtained from a public water supply; the method of treatment used; the

method of postdisinfection used; and a local or toll-free telephone number that may be called for obtaining further information, reporting problems, or making complaints.

~~(7)~~(6) PENALTIES.—

(a) The department may deny, suspend, or revoke a permit if it finds that there has been a substantial failure to comply with this section or rules adopted under this section.

(b) Any person who operates a water vending machine without first obtaining an operating permit as required by subsection ~~(3)~~ (2), who operates a water vending machine in violation of an order to discontinue operation, or who maintains or operates a water vending machine after revocation of the operating permit is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 25. Section 500.511, Florida Statutes, is amended to read:

500.511 Fees; enforcement; preemption.—

(1) FEES.—All fees collected under ~~s. 500.459 ss. 500.453-500.511~~ shall be deposited into the General Inspection Trust Fund and shall be accounted for separately and used for the sole purpose of administering the provisions of such ~~each~~ section ~~requiring a fee~~.

(2) ENFORCEMENT AND PENALTIES.—In addition to the provisions contained in ~~s. 500.459 ss. 500.453-500.511~~, the department may enforce ~~s. 500.459 ss. 500.453-500.511~~ in the manner provided in s. 500.121. Any person who violates a provision of ~~s. 500.459 ss. 500.453-500.511~~ or any rule adopted under such ~~section~~ sections shall be punished as provided in such sections. However, criminal penalties may not be imposed against any person who violates a rule.

(3) PREEMPTION OF AUTHORITY TO REGULATE.—Regulation of bottled water plants, ~~bottled water plant operators, water dealers,~~ water vending machines, water vending machine operators, and packaged ice plants, ~~packaged ice plant operators, and packaged ice dealers~~ is preempted by the state. No county or municipality may adopt or enforce any ordinance that regulates the licensure or operation of bottled water plants, water vending machines, or packaged ice plants, unless it is determined that unique conditions exist within the county which require the county to regulate such entities in order to protect the public health. This subsection does not prohibit a county or municipality from requiring an occupational license tax pursuant to chapter 205.

Section 26. Section 526.3135, Florida Statutes, is amended to read:

526.3135 Reports by the Department of Agriculture and Consumer Services Division of Consumer Services.—~~The Department of Agriculture and Consumer Services Division of Consumer Services~~ is directed to compile a report pursuant to s. 570.544 of all complaints received by the Department of Agriculture and Consumer Services pursuant to this act. Such report shall

contain at least the information required by s. 570.544(6)(b)2.-4. and shall be presented to the Speaker of the House of Representatives and the President of the Senate no later than January 1 of each year.

Section 27. Section 531.44, Florida Statutes, is amended to read:

531.44 Misrepresentation of pricing; verification procedures.—

(1) No person shall misrepresent the price of any commodity or service sold or offered, exposed, or advertised for sale by weight, measure, or count, nor represent the price in any manner calculated or tending to mislead or in any way deceive a person. Whenever an advertised, posted, or labeled price per unit of weight, measure, or count includes a fraction of a cent, all elements of a fraction shall be prominently displayed, and the numeral or numerals expressing the fraction shall be immediately adjacent to, of the same general design and style as, and at least one-half the height and width of, the numerals representing the whole cent.

(2) The department may adopt, by rule, sampling procedures for determining acceptable pricing practices. Sampling procedures for determining acceptable pricing practices may include, but are not limited to, those procedures adopted by the National Conference on Weights and Measures.

Section 28. Section 531.50, Florida Statutes, is amended to read:

531.50 Administrative fine, ~~Offenses and penalties, and offenses.~~—

(1) The department may enter an order imposing one or more of the following penalties against any person who violates any provision of this chapter or rule adopted under this chapter or impedes, obstructs, or hinders the department in the performance of its duties in connection with the provisions of this chapter:

(a) Issuance of a warning letter or notice.

(b) Imposition of an administrative fine of:

1. Up to \$1,000 for a first violation;

2. Up to \$2,500 for a second violation within 2 years after the first violation; or

3. Up to \$5,000 for a third violation within 2 years after the first violation.

When imposing any fine under this section, the department shall consider the degree and extent of potential harm caused by the violation, the amount of money by which the violator benefited from noncompliance, whether the violation was committed willfully, and the compliance record of the violator. All fines, monetary penalties, and costs received by the department shall be deposited in the General Inspection Trust Fund for the purpose of administering the provisions of this chapter.

~~(2)(4)~~ Any person who willfully and knowingly violates ~~the provisions enumerated in subsection (2) or any provision of this chapter or rule rules adopted by the department pursuant to this chapter commits thereto for which a specific penalty has not been prescribed shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Upon a subsequent conviction, a person commits he shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.~~

~~(3)(2)~~ No person shall:

(a) Use, or have in possession for use, in commerce any weight or measure not approved or corrected as provided in s. 531.41(12).

(b) Use or dispose of any rejected or condemned weight or measure without specific authorization from the rejecting authority.

(c) Remove any mark of rejection from a rejected weight or measure without specific authorization from the rejecting authority.

Section 29. Section 534.011, Florida Statutes, is amended to read:

534.011 Inspection and protection of livestock; jurisdiction of Department of Agriculture and Consumer Services.—The inspection and protection of livestock in the state are hereby placed under the jurisdiction of the Department of Agriculture and Consumer Services, herein called the “department.” Fees collected pursuant to this chapter shall be deposited in the General Inspection Trust Fund.

Section 30. Subsection (1) of section 253.68, Florida Statutes, 1996 Supplement, is amended to read:

253.68 Authority to lease submerged land and water column.—

(1) To the extent that it is not contrary to the public interest, and subject to limitations contained in ss. 253.67-253.75, the board of trustees may lease submerged lands to which it has title for the conduct of aquaculture activities and grant exclusive use of the bottom and the water column to the extent required by such activities. Such leases may authorize use of the submerged land and water column for either commercial or experimental purposes. However ~~no lease shall be granted by the board when there is filed with it~~ a resolution of objection adopted by a majority of the county commission of a county within whose boundaries the proposed leased area would lie, if the boundaries same were extended to the extent of the interest of the state, may the proposed lease area would lie. ~~Said resolution shall be filed with the board of trustees within 30 days of the date of the first publication of notice as required by s. 253.70. Prior to the granting of any such leases, the board shall establish and publish a list of guidelines to be followed when considering applications for lease. Such guidelines shall be designed to protect the public’s interest in submerged lands and the publicly owned water column.~~

Section 31. Section 500.453, Florida Statutes, as created by chapter 94-180, Laws of Florida, and sections 500.455, 500.457, and 500.509, Florida

Statutes, as amended by chapter 94-180, Laws of Florida, are hereby repealed.

Section 32. The Cracker Country facility located at the Florida State Fairgrounds is hereby designated as the "Doyle E. Carlton, Jr., Cracker Country." The Florida State Fair Authority is authorized to erect appropriate markers bearing the designation made by this section.

Section 33. This act shall take effect upon becoming a law.

Became a law without the Governor's approval May 30, 1997.

Filed in Office Secretary of State May 29, 1997.