

CHAPTER 98-396

Senate Bill No. 1944

An act relating to the Department of Agriculture and Consumer Services; creating s. 535.08, F.S.; providing a prohibition against the administration of medications to thoroughbred horses prior to sale; providing an exception and certain requirements; providing for testing; providing for a tolerance or test for medications and depressants; providing penalties; amending s. 535.11, F.S., relating to prohibition against administration of drugs to horses; providing a definition; creating s. 585.147, F.S.; requiring a permit for transporting or hauling certain animals or animal products; providing vehicle and container requirements; amending s. 500.09, F.S.; authorizing the department to perform certain laboratory services relating to food safety and establish fees therefor; amending s. 500.121, F.S.; adding new disciplinary procedures for food establishments operating without a permit or with a suspended or revoked permit; providing a penalty; amending s. 570.07, F.S.; authorizing an employees' benefit fund; amending s. 570.952, F.S.; revising membership of the Florida Agriculture Center and Horse Park Authority; amending s. 571.25, F.S.; changing the registration date for membership in the Florida Agricultural Promotional Campaign; amending s. 581.031, F.S.; providing duties of the department relating to a commercial citrus inventory; amending s. 500.11, F.S.; specifying conditions for animal products to be considered misbranded; repealing s. 102, ch. 92-291, Laws of Florida, relating to review and repeal of ss. 500.12, 500.121, F.S.; providing for funding for the Citrus Budwood Registration Program; creating s. 506.5131, F.S.; providing for the return of shopping carts to their owner when found on public property; providing that fees, fines, and costs may not be assessed against the owner of a shopping cart in certain circumstances; creating s. 604.50, F.S., relating to nonresidential farm buildings; providing exemptions from building codes; providing definitions; providing an effective date.

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

Section 1. Section 535.08, Florida Statutes, is created to read:

535.08 Thoroughbred sales; administration of medications prior to sale; testing.—

(1) No person shall administer to any thoroughbred horse offered for licensed public sale at a thoroughbred horse sale any substance that is recognized as an injectable, oral, or topical medication within 72 hours of the start of the sale session in which the thoroughbred horse is offered for sale unless the person is a licensed veterinarian and the medication is therapeutic or necessary for the treatment or prevention of an illness or injury.

(2) The administration of any such medication must be reported to the sales organization on a form provided for this purpose by the sales organiza-

tion, signed by the attending veterinarian, which shall set forth the following information:

- (a) Identification of the medication, amount, and strength.
- (b) The date and time of administration.
- (c) Identification of the horse's name, age, sex, and entry number.
- (d) The reason for administration.

The form must be filed with the sales organization no later than 12 hours after administration or 1 hour before the start of the sales session in which the thoroughbred horse is offered for sale, whichever would require the earlier filing. The sales organization shall make all such forms available to the public, and the availability of this information shall be publicized in any applicable sales catalogue.

(3)(a) The state veterinarian, or any veterinarian designated by the department, may collect a blood sample from any thoroughbred horse offered or sold at a licensed thoroughbred horse sale for the purpose of determining if the horse has been administered a substance in violation of subsection (1). Such a test shall be performed at the request of the purchaser of any thoroughbred horse sold, if the purchaser makes such a request before taking physical possession of the animal and within 24 hours of the time of sale. The purchaser shall be solely responsible for the cost of the test, and payment shall be made to the sales organization. The sales organization shall then remit the cost of these tests to the department.

(b) Any such blood sample shall be delivered for initial testing to an official laboratory approved by the department. One-half of any such blood sample shall be used for initial testing and the remaining one-half shall be stored for possible follow-up testing for a period of not less than 2 weeks after receipt of the initial test results.

(c) The seller may request followup testing in response to any positive test result within 48 hours after receiving actual notice of such a result. The seller shall be solely responsible for the cost of any followup testing. Upon request of the seller, the original laboratory and an additional laboratory selected by the seller and approved by the state veterinarian shall test the stored sample.

(d) If initial testing reveals that a horse has been administered a substance in violation of subsection (1) and followup testing by both laboratories confirms this conclusion or the seller does not request such testing within the 48-hour period provided, the consignor must accept return of the horse as unsold.

(e) The department shall by rule, establish those medications and depressants for which a tolerance may be set that, if found in the blood sample, may be construed to be forbidden substances; shall establish procedures for the collection, handling, and storage of blood samples; and shall specify the

type of test to be used. Until such time that a tolerance or test is established, a zero tolerance will be enforced.

(4)(a) Any person who violates subsection (1) commits a misdemeanor of the second degree, punishable as provided in ss. 775.082 and 775.083. For a second or subsequent offense, such person commits a misdemeanor of the first degree, punishable as provided in ss. 775.082 and 775.083.

(b) In addition to the penalties provided in paragraph (a), any person convicted of a violation of subsection (1) shall be barred from showing, exhibiting, or offering for sale at a licensed public sale any horse in this state for a period of 2 years from the date of the conviction.

Section 2. Subsection (1) of section 535.11, Florida Statutes, is amended to read:

535.11 Prohibition against administration of drugs; testing; search powers of department; penalties.—

(1) As used in this section, the term:

~~(a) “Stimulant” means any medication that stimulates the circulatory, respiratory, or central nervous system.~~

~~(a)(b) “Depressant” means any medication that depresses the circulatory, respiratory, or central nervous system.~~

~~(b)(c) “Forbidden substance” means any stimulant, depressant, tranquilizer, analgesic, local anesthetic, steroidal or nonsteroidal anti-inflammatory drug, or drug or drug metabolite that could affect the performance of a horse. The term includes any substance, regardless of how harmless or innocuous, which could interfere in detecting the presence of a stimulant, depressant, tranquilizer, analgesic, local anesthetic, steroidal or nonsteroidal anti-inflammatory drug, or drug or drug metabolite that could affect the performance of a horse.~~

~~(c) “Horse show,” “horse exhibition,” or “horse sale” means any event in which horses compete for awards, prizes, points, ribbons, or money or are made available for public sale other than through a public sale of thoroughbred horses that requires licensing under s. 535.01.~~

~~(d) “Stimulant” means any medication that stimulates the circulatory, respiratory, or central nervous system.~~

~~(e)(d) “Trainer” means any adult who has the responsibility for the care, training, custody, or performance of a horse. Such person may be an owner, rider, agent, or coach, as well as a trainer.~~

Section 3. Section 585.147, Florida Statutes, is created to read:

585.147 Permit for transporting or hauling certain animals or animal products; fees; vehicle and container requirements.—

(1) No person shall engage in the business of transporting or hauling any dead, dying, disabled, or diseased animal, any product of an animal that died

other than by slaughter, or any inedible animal product not meant for human consumption without having first applied for, and obtained from the department, a permit, which shall expire on June 30 of each year.

(2) All vehicles used in the transportation of carcasses or refuse on public highways shall be of such construction as to prevent seepage or residue from escaping.

(3) All barrels or other containers used for transportation and storage of carcasses or refuse shall be clearly marked "INEDIBLE" with letters not less than 2 inches in height.

Section 4. Subsections (6) and (7) are added to section 500.09, Florida Statutes, to read:

500.09 Rulemaking; analytical work.—

(6) The department may perform laboratory services relating to, or having potential impact on, food safety or the compliance of food with the requirements of this chapter for any person or public agency.

(7) The department may establish and collect reasonable fees for laboratory services performed pursuant to subsection (6). Such fees shall be deposited in the department's General Inspection Trust Fund and shall be used solely for the recovery of costs for the services provided.

Section 5. Subsection (5) is added to section 500.121, Florida Statutes, to read:

500.121 Disciplinary procedures.—

(5) The department shall post a prominent closed-for-operation sign on any food establishment that has had its permit suspended or revoked. The department shall also post such a sign on any establishment judicially or administratively determined to be operating without a permit. It is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, for any person to deface or remove such closed-for-operation sign or for any food establishment to open for operation without a permit or to open for operation while its permit is suspended or revoked. The department may impose administrative sanctions for violations of this subsection.

Section 6. Subsection (34) is added to section 570.07, Florida Statutes, to read:

570.07 Department of Agriculture and Consumer Services; functions, powers, and duties.—The department shall have and exercise the following functions, powers, and duties:

(34) To adopt policies creating, and providing for the operation of, an employees' benefit fund.

Section 7. Paragraph (a) of subsection (2) of section 570.952, Florida Statutes, is amended to read:

570.952 Florida Agriculture Center and Horse Park Authority.—

(2) The authority shall be composed of 23 members appointed by the commissioner.

(a) Members shall include:

1. One citizen-at-large, who shall represent the views of the general public toward agriculture and equine activities in the state.

2. One representative from the Department of Agriculture and Consumer Services.

3. One representative from Enterprise Florida, Inc ~~the Department of Commerce.~~

4. One representative from the Department of Environmental Protection, Office of Greenways Management.

5. One member of the Ocala/Marion County Chamber of Commerce.

6. One public/private partnership expert.

7. One member of a private environmental organization.

8. One fruit and vegetable grower.

9. One citrus grower.

10. One commercial feed producer.

11. One livestock/cattle breeder.

12. One quarter horse breeder.

13. One thoroughbred horse breeder.

14. One standardbred horse breeder.

15. One Arabian horse breeder.

16. One color breeds Appaloosa horse breeder.

17. One licensed veterinarian.

18. One Paso Fino ~~paint~~ horse breeder.

19. One ornamental or nursery stock grower.

20. One representative from the horse show industry.

21. One representative from the horse sport industry.

22. One representative from the horse trailriders industry.

23. One representative from the Board of County Commissioners of Marion County.

Section 8. Subsection (1) of section 571.25, Florida Statutes, is amended to read:

571.25 Registration and fees.—

(1) Any person who participates in the Florida Agricultural Promotional Campaign shall register annually with the department in a form and manner as required by the department. Each person shall renew his or her ~~their~~ registration on the anniversary date of his or her original membership ~~by July 1 of each year.~~

Section 9. Subsection (31) is added to section 581.031, Florida Statutes, to read:

581.031 Department; powers and duties.—The department has the following powers and duties:

(31) To conduct, assist, or cooperate with others in conducting a commercial citrus inventory and to expend funds therefor as may be deposited in the Plant Industry Trust Fund for such purposes.

Section 10. Paragraph (p) is added to subsection (1) of section 500.11, Florida Statutes, to read:

500.11 Food deemed misbranded.—

(1) A food is deemed to be misbranded:

(p) If it is an animal product that fails to have directly thereon or on its container the official inspection legend as required by the United States Department of Agriculture and, unrestricted by any other provision of this section, such other information as the department requires to ensure that it shall not have false or misleading labeling and that the public is informed of the manner of handling required to maintain the product in a wholesome condition.

Section 11. In the event it is determined that the Citrus Budwood Registration Program in the amount of \$601,396 cannot be funded from the Citrus Inspection Trust Fund, then the Citrus Budwood Registration Program shall be funded from budget transfers within the operating budget of the Department of Agriculture and Consumer Services.

Section 12. Section 506.5131, Florida Statutes, is created to read:

506.5131 Return of shopping carts; assessment of fees; fines and costs.—

(1) The rightful owner of any shopping cart with a registered name or mark found on public property shall be immediately notified of its recovery.

(2) Notwithstanding any other provision of law or local ordinance, no fee, fine or costs may be assessed against the owner of a shopping cart found on public property, unless the shopping cart was removed from the premises or parking area of a retail establishment by the owner of the shopping cart, or an employee acting on the owner's behalf, and such fee, fine or cost has been approved by the Department of Agriculture and Consumer Services.

Section 13. Section 604.50, Florida Statutes, is created to read:

604.50 Nonresidential farm buildings.—Notwithstanding any other law to the contrary, any nonresidential farm building located on a farm is exempt from the Florida Building Code, and any county or municipal building code. For purposes of this section “nonresidential farm building” means any building or structure located on a farm that is not used as a residential dwelling. Farm is as defined in s. 823.14.

Section 14. Section 102 of chapter 92-291, Laws of Florida, is repealed.

Section 15. This act shall take effect upon becoming a law.

Became a law without the Governor's approval May 31, 1998.

Filed in Office Secretary of State May 29, 1998.