

Council Substitute for House Bill No. 1681

An act relating to agriculture and consumer services; transferring the Division of Licensing of the Department of State to the Department of Agriculture and Consumer Services; amending s. 20.10, F.S.; conforming provisions; amending s. 20.14, F.S.; creating the Division of Licensing in the Department of Agriculture and Consumer Services; amending ss. 493.6101, 493.6104, 493.6108, 493.6109, 493.6112, 493.6121, 790.06, F.S.; redesignating the department with regulatory responsibilities; creating s. 288.1175, F.S.; amending s. 316.515, F.S.; revising the types of equipment authorized for transporting farm products; allowing the Department of Transportation to issue certain permits; amending s. 370.31, F.S.; transferring the Sturgeon Production Working Group from the Department of Environmental Protection to the Department of Agriculture and Consumer Services; revising membership and procedures; amending s. 388.261, F.S.; revising provisions relating to state aid to counties and districts for arthropod control; prorating county funds under certain circumstances; providing an exemption from funding requirements under certain circumstances; authorizing the use of state funds when requested by a county or district; authorizing funds for technical assistance or to purchase equipment, supplies, or services; amending s. 388.281, F.S.; revising uses for state matching funds; amending s. 388.361, F.S.; authorizing the Department of Agriculture and Consumer Services to cooperate with local agencies; authorizing collection, detection, suppression, and control of mosquitoes and arthropods on public or private land; amending s. 388.45, F.S.; clarifying provisions relating to threats to public health and the issuance of declarations; authorizing declaration of a threat to animal health when certain conditions exist; authorizing treatment or control measures; amending s. 403.067, F.S.; authorizing implementation of interim measures for specified water bodies for which total maximum daily load or allocation has not been established; amending s. 403.707, F.S.; authorizing the processing or disposal of certain invasive exotic plant species; authorizing the Department of Environmental Protection to adopt rules; amending s. 403.709, F.S.; deleting the minimum county allocation to local mosquito control agencies from waste tire fees; amending s. 482.277, F.S.; revising requirements relating to guarantees and warranties in contracts for treatment of wood-destroying organisms; declaring legislative intent with respect to such warranties and guarantees; amending s. 482.2401, F.S.; adding education in pest control as an approved use of administrative fine revenues; creating s. 482.243, F.S.; creating the Pest Control Enforcement Advisory Council in the department; providing for membership, terms, and procedures; providing powers and duties; amending s. 487.041, F.S.; increasing the annual registration fee for a registered pesticide; amending s. 500.121, F.S.; providing sanctions for nutrient labeling violations; amending s. 500.148, F.S.; authorizing the department to issue a report certifying food establishment compliance with sanitation and permitting

requirements for food exportation purposes; authorizing fees; amending s. 501.160, F.S.; providing for enforcement of prohibitions of unconscionable prices on rental or sale of essential commodities; amending s. 570.07, F.S.; authorizing the department to provide meals when personnel cannot leave emergency incident locations; amending s. 573.124, F.S.; increasing penalties for furnishing false information, or refusing to furnish information, relating to the marketing of agricultural commodities; amending s. 581.091, F.S.; requiring the Department of Agriculture and Consumer Services to periodically review the state lists of noxious weeds and invasive plants; requiring water management districts and local governments to use the lists when identifying noxious weeds, invasive plants, and certain other plants pursuant to rule, ordinance or regulation; amending s. 585.002, F.S.; authorizing the department to set fees for additional services relating to the animal industry; amending s. 585.08, F.S.; authorizing the Division of Animal Industry, under certain circumstances, to condemn and destroy an animal that is liable to spread contagious, infectious, or communicable disease; amending s. 585.09, F.S.; conforming a cross-reference; repealing s. 585.10, F.S., relating to limitations on payments to owners of condemned and destroyed animals; amending s. 585.11, F.S.; authorizing the department to cooperate with United States Department of Agriculture accredited private veterinarians; amending s. 585.21, F.S.; requiring written permission of the department prior to sale in the state of certain biological products; amending s. 585.61, F.S.; increasing fees for use of animal disease diagnostic laboratories; amending s. 590.02, F.S.; revising the powers of the Division of Forestry; providing that certain managerial positions are classified under the Selected Exempt Service; naming the Cross City Work Center the L. Earl Peterson Forestry Station; amending s. 590.11, F.S.; providing a criminal penalty for violation of recreational fire provisions; amending s. 590.125, F.S.; revising requirements for certified prescribed burning; renaming procedures for protecting wild lands from wildfires; amending s. 597.020, F.S.; requiring aquaculture licenses and certifications to expire annually; amending s. 616.242, F.S.; providing that certain kiddie rides shall be exempt from the requirement for receipt of an inspection certificate each time the ride is set up; revising accident-reporting requirements; amending s. 496.404, F.S.; redefining the term "educational institutions"; designating the U.S.D.A. Service Center Building in Bartow as the John W. Hunt Building; amending s. 316.640, F.S.; eliminating certain limitations on the authority of the Office of Agricultural Law Enforcement; amending s. 570.073, F.S.; specifying duties of the Office of Agricultural Law Enforcement with respect to its jurisdiction over violations of law which threaten the security and safety of agriculture and consumer services; authorizing the office to enforce civil traffic offenses and laws relating to the responsibilities of the Commissioner of Agriculture; specifying that officers within the department have the full powers granted to other peace officers of this state; authorizing the commission to appoint part-time, reserve, or auxiliary law enforcement officers; amending s. 163.05, F.S.;

amending s. 570.71, F.S.; revising provisions relating to conservation easements and rural land protection easements; amending s. 590.14, F.S.; revising criteria for determining administrative fines for violation of provisions relating to forestry; creating s. 604.40, F.S.; providing regulations regarding equipment used on a farm; amending s. 604.50, F.S.; clarifying the definition of a nonresidential farm building; providing an appropriation and one position; providing an appropriation; creating ch. 261, F.S.; creating the T. Mark Schmidt Off-Highway Vehicle Safety and Recreation Act; providing legislative findings and intent; providing definitions; creating the Off-Highway Vehicle Recreation Advisory Committee effective July 1, 2003; providing membership, duties, and responsibilities of the committee; providing functions, duties, and responsibilities of the Department of Agriculture and Consumer Services; requiring the department to review certain public lands and make a report to the Governor and the Legislature; providing rulemaking authority; providing for the publication and distribution of a guidebook; providing for the repair, maintenance, and rehabilitation of areas, trails, and lands; providing for contracts and agreements; providing criteria for recreation areas and trails; providing a penalty; providing for the use of designated off-highway vehicle funds within the Incidental Trust Fund of the Division of Forestry of the department; amending s. 316.2074, F.S.; revising the definition of the term "all-terrain vehicle"; prohibiting the use of all-terrain vehicles on public roadways in the state; providing exceptions; creating the Florida Off-Highway Vehicle Titling Act; providing legislative intent; providing definitions; providing for administration by the Department of Highway Safety and Motor Vehicles; providing for rules, forms, and notices; requiring certificates of title; providing for application for and issuance of certificates of title; providing for duplicate certificates of title; requiring the furnishing of a manufacturer's statement of origin; providing for fees; providing for disposition of fees; providing authority to refuse to issue and to cancel a certificate of title; providing crimes relating to certificates of title; providing penalties; providing noncriminal infractions; providing penalties; amending s. 375.313, F.S.; deleting fee collection responsibility of the Fish and Wildlife Conservation Commission for registration of off-road vehicles; repealing s. 375.315, F.S., relating to the registration of off-road vehicles by the commission; amending s. 163.3177, F.S.; revising requirements for future land use plans; amending s. 163.01, F.S.; revising provisions with respect to the Florida Interlocal Cooperation Act of 1969; authorizing entities to finance certain facilities under the act; providing effective dates.

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

Section 1. Effective January 3, 2003, pursuant to section 20.06(2), Florida Statutes, the Division of Licensing of the Department of State is transferred by a type two transfer to the Department of Agriculture and Consumer Services and reestablished as a division within that department. Notwithstanding the provisions of section 20.06(2)(b), Florida Statutes, the

Commissioner of Agriculture is not authorized to reconfigure the division or its units or subunits, or to modify its structure, duties, programs, activities, or functions, or to reassign any funds from any trust fund supporting those duties, programs, activities, or functions.

Section 2. Effective January 3, 2003, subsection (2) of section 20.10, Florida Statutes, is amended to read:

20.10 Department of State.—There is created a Department of State.

(2) The following divisions of the Department of State are established:

- (a) Division of Elections.
- (b) Division of Historical Resources.
- (c) Division of Corporations.
- (d) Division of Library and Information Services.
- ~~(e) Division of Licensing.~~
- ~~(e)(f)~~ Division of Cultural Affairs.
- ~~(f)(g)~~ Division of Administration.

Section 3. Effective January 3, 2003, subsection (2) of section 20.14, Florida Statutes, is amended to read:

20.14 Department of Agriculture and Consumer Services.—There is created a Department of Agriculture and Consumer Services.

(2) The following divisions of the Department of Agriculture and Consumer Services are established:

- (a) Administration.
- (b) Agricultural Environmental Services.
- (c) Animal Industry.
- (d) Aquaculture.
- (e) Consumer Services.
- (f) Dairy Industry.
- (g) Food Safety.
- (h) Forestry.
- (i) Fruit and Vegetables.
- (j) Licensing.

~~(k)~~(j) Marketing and Development.

~~(l)~~(k) Plant Industry.

~~(m)~~(l) Standards.

Section 4. Effective January 3, 2003, subsection (1) of section 493.6101, Florida Statutes, is amended to read:

493.6101 Definitions.—

(1) “Department” means the Department of Agriculture and Consumer Services State.

Section 5. Effective January 3, 2003, subsection (2) of section 493.6104, Florida Statutes, is amended to read:

493.6104 Advisory council.—

(2) Council members shall be appointed by the Commissioner of Agriculture Secretary of State for a 4-year term. In the event of an appointment to fill an unexpired term, the appointment shall be for no longer than the remainder of the unexpired term. No member may serve more than two full consecutive terms. Members may be removed by the Commissioner of Agriculture Secretary of State for cause. Cause shall include, but is not limited to, absences from two consecutive meetings.

Section 6. Effective January 3, 2003, section 493.6108, Florida Statutes, is amended to read:

493.6108 Investigation of applicants by Department of Agriculture and Consumer Services State.—

(1) Except as otherwise provided, prior to the issuance of a license under this chapter, the department shall make an investigation of the applicant for a license. The investigation shall include:

(a)1. An examination of fingerprint records and police records. When a criminal history analysis of any applicant under this chapter is performed by means of fingerprint card identification, the time limitations prescribed by s. 120.60(1) shall be tolled during the time the applicant’s fingerprint card is under review by the Department of Law Enforcement or the United States Department of Justice, Federal Bureau of Investigation.

2. If a legible set of fingerprints, as determined by the Department of Law Enforcement or the Federal Bureau of Investigation, cannot be obtained after two attempts, the Department of Agriculture and Consumer Services State may determine the applicant’s eligibility based upon a criminal history record check under the applicant’s name conducted by the Department of Law Enforcement and the Federal Bureau of Investigation. A set of fingerprints taken by a law enforcement agency and a written statement signed by the fingerprint technician or a licensed physician stating that there is a physical condition that precludes obtaining a legible set of

fingerprints or that the fingerprints taken are the best that can be obtained is sufficient to meet this requirement.

(b) An inquiry to determine if the applicant has been adjudicated incompetent under chapter 744 or has been committed to a mental institution under chapter 394.

(c) Such other investigation of the individual as the department may deem necessary.

(2) In addition to subsection (1), the department shall make an investigation of the general physical fitness of the Class "G" applicant to bear a weapon or firearm. Determination of physical fitness shall be certified by a physician currently licensed pursuant to chapter 458, chapter 459, or any similar law of another state or authorized to act as a licensed physician by a federal agency or department. Such certification shall be submitted on a form provided by the department.

(3) The department shall also investigate the mental history and current mental and emotional fitness of any Class "G" applicant, and may deny a Class "G" license to anyone who has a history of mental illness or drug or alcohol abuse.

Section 7. Effective January 3, 2003, subsection (2) of section 493.6109, Florida Statutes, is amended to read:

493.6109 Reciprocity.—

(2) The rules authorized in subsection (1) may be promulgated only if:

(a) The other state or territory has requirements which are substantially similar to or greater than those established in this chapter.

(b) The applicant has engaged in licensed activities for at least 1 year in the other state or territory with no disciplinary action against him or her.

(c) The Commissioner of Agriculture ~~Secretary of State~~ or other appropriate authority of the other state or territory agrees to accept service of process for those licensees who are operating in this state on a temporary basis.

Section 8. Effective January 3, 2003, section 493.6112, Florida Statutes, is amended to read:

493.6112 Notification to Department of Agriculture and Consumer Services ~~State~~ of changes of partner or officer or employees.—

(1) After filing the application, unless the department declines to issue the license or revokes it after issuance, an agency or school shall, within 5 working days of the withdrawal, removal, replacement, or addition of any or all partners or officers, notify and file with the department complete applications for such individuals. The agency's or school's good standing under this chapter shall be contingent upon the department's approval of any new partner or officer.

(2) Each agency or school shall, upon the employment or termination of employment of a licensee, report such employment or termination immediately to the department and, in the case of a termination, report the reason or reasons therefor. The report shall be on a form prescribed by the department.

Section 9. Effective January 3, 2003, subsection (7) of section 493.6121, Florida Statutes, is amended to read:

493.6121 Enforcement; investigation.—

(7) The Department of Legal Affairs shall represent the Department of Agriculture and Consumer Services State in judicial proceedings seeking enforcement of this chapter, or upon an action by any party seeking redress against the department, and shall coordinate with the department in the conduct of any investigations incident to its legal responsibility.

Section 10. Effective January 3, 2003, section 790.06, Florida Statutes, is amended to read:

790.06 License to carry concealed weapon or firearm.—

(1) The Department of Agriculture and Consumer Services State is authorized to issue licenses to carry concealed weapons or concealed firearms to persons qualified as provided in this section. Each such license must bear a color photograph of the licensee. For the purposes of this section, concealed weapons or concealed firearms are defined as a handgun, electronic weapon or device, tear gas gun, knife, or billie, but the term does not include a machine gun as defined in s. 790.001(9). Such licenses shall be valid throughout the state for a period of 5 years from the date of issuance. Any person in compliance with the terms of such license may carry a concealed weapon or concealed firearm notwithstanding the provisions of s. 790.01. The licensee must carry the license, together with valid identification, at all times in which the licensee is in actual possession of a concealed weapon or firearm and must display both the license and proper identification upon demand by a law enforcement officer. Violations of the provisions of this subsection shall constitute a noncriminal violation with a penalty of \$25, payable to the clerk of the court.

(2) The Department of Agriculture and Consumer Services State shall issue a license if the applicant:

(a) Is a resident of the United States or is a consular security official of a foreign government that maintains diplomatic relations and treaties of commerce, friendship, and navigation with the United States and is certified as such by the foreign government and by the appropriate embassy in this country;

(b) Is 21 years of age or older;

(c) Does not suffer from a physical infirmity which prevents the safe handling of a weapon or firearm;

(d) Is not ineligible to possess a firearm pursuant to s. 790.23 by virtue of having been convicted of a felony;

(e) Has not been committed for the abuse of a controlled substance or been found guilty of a crime under the provisions of chapter 893 or similar laws of any other state relating to controlled substances within a 3-year period immediately preceding the date on which the application is submitted;

(f) Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses alcoholic beverages or other substances to the extent that his or her normal faculties are impaired if the applicant has been committed under chapter 397 or under the provisions of former chapter 396 or has been convicted under s. 790.151 or has been deemed a habitual offender under s. 856.011(3), or has had two or more convictions under s. 316.193 or similar laws of any other state, within the 3-year period immediately preceding the date on which the application is submitted;

(g) Desires a legal means to carry a concealed weapon or firearm for lawful self-defense;

(h) Demonstrates competence with a firearm by any one of the following:

1. Completion of any hunter education or hunter safety course approved by the Fish and Wildlife Conservation Commission or a similar agency of another state;

2. Completion of any National Rifle Association firearms safety or training course;

3. Completion of any firearms safety or training course or class available to the general public offered by a law enforcement, junior college, college, or private or public institution or organization or firearms training school, utilizing instructors certified by the National Rifle Association, Criminal Justice Standards and Training Commission, or the Department of State;

4. Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;

5. Presents evidence of equivalent experience with a firearm through participation in organized shooting competition or military service;

6. Is licensed or has been licensed to carry a firearm in this state or a county or municipality of this state, unless such license has been revoked for cause; or

7. Completion of any firearms training or safety course or class conducted by a state-certified or National Rifle Association certified firearms instructor;

A photocopy of a certificate of completion of any of the courses or classes; or an affidavit from the instructor, school, club, organization, or group that conducted or taught said course or class attesting to the completion of the course or class by the applicant; or a copy of any document which shows completion of the course or class or evidences participation in firearms competition shall constitute evidence of qualification under this paragraph; any person who conducts a course pursuant to subparagraph 2., subparagraph 3., or subparagraph 7., or who, as an instructor, attests to the completion of such courses, must maintain records certifying that he or she observed the student safely handle and discharge the firearm;

(i) Has not been adjudicated an incapacitated person under s. 744.331, or similar laws of any other state, unless 5 years have elapsed since the applicant's restoration to capacity by court order;

(j) Has not been committed to a mental institution under chapter 394, or similar laws of any other state, unless the applicant produces a certificate from a licensed psychiatrist that he or she has not suffered from disability for at least 5 years prior to the date of submission of the application;

(k) Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony or 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 sealed or expunged;

(l) Has not been issued an injunction that is currently in force and effect and that restrains the applicant from committing acts of domestic violence or acts of repeat violence; and

(m) Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.

(3) The Department of Agriculture and Consumer Services State shall deny a license if the applicant has been found guilty of, had adjudication of guilt withheld for, or had imposition of sentence suspended for one or more crimes of violence constituting a misdemeanor, unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled or the record has been sealed or expunged. The Department of Agriculture and Consumer Services State shall revoke a license if the licensee has been found guilty of, had adjudication of guilt withheld for, or had imposition of sentence suspended for one or more crimes of violence within the preceding 3 years. The department shall, upon notification by a law enforcement agency, a court, or the Florida Department of Law Enforcement and subsequent written verification, 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 under this section, until final disposition of the case. The department shall 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.

(4) The application shall be completed, under oath, on a form promulgated by the Department of Agriculture and Consumer Services State and shall include:

(a) The name, address, place and date of birth, race, and occupation of the applicant;

(b) A statement that the applicant is in compliance with criteria contained within subsections (2) and (3);

(c) A statement that the applicant has been furnished a copy of this chapter and is knowledgeable of its provisions;

(d) A conspicuous warning that the application is executed under oath and that a false answer to any question, or the submission of any false document by the applicant, subjects the applicant to criminal prosecution under s. 837.06; and

(e) A statement that the applicant desires a concealed weapon or firearms license as a means of lawful self-defense.

(5) The applicant shall submit to the Department of Agriculture and Consumer Services State:

(a) A completed application as described in subsection (4).

(b) A nonrefundable license fee not to exceed \$85, if he or she has not previously been issued a statewide license, or a nonrefundable license fee not to exceed \$70 for renewal of a statewide license. Costs for processing the set of fingerprints as required in paragraph (c) shall be borne by the applicant. However, an individual holding an active certification from the Criminal Justice Standards and Training Commission as a “law enforcement officer,” “correctional officer,” or “correctional probation officer” as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9) is exempt from the licensing requirements of this section. If any individual holding an active certification from the Criminal Justice Standards and Training Commission as a “law enforcement officer,” a “correctional officer,” or a “correctional probation officer” as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9) wishes to receive a concealed weapons or firearms license, such person is exempt from the background investigation and all background investigation fees, but shall pay the current license fees regularly required to be paid by nonexempt applicants. Further, a law enforcement officer, a correctional officer, or a correctional probation officer as defined in s. 943.10(1), (2), or (3) is exempt from the required fees and background investigation for a period of 1 year subsequent to the date of retirement of said officer as a law enforcement officer, a correctional officer, or a correctional probation officer.

(c) A full set of fingerprints of the applicant administered by a law enforcement agency.

(d) A photocopy of a certificate or an affidavit or document as described in paragraph (2)(h).

(e) A full frontal view color photograph of the applicant taken within the preceding 30 days, in which the head, including hair, measures $\frac{7}{8}$ of an inch wide and $1\frac{1}{8}$ inches high.

(6)(a) The Department of Agriculture and Consumer Services State, upon receipt of the items listed in subsection (5), shall forward the full set of fingerprints of the applicant to the Department of Law Enforcement for state and federal processing, provided the federal service is available, to be processed for any criminal justice information as defined in s. 943.045. The cost of processing such fingerprints shall be payable to the Department of Law Enforcement by the Department of Agriculture and Consumer Services State.

(b) The sheriff's office shall provide fingerprinting service if requested by the applicant and may charge a fee not to exceed \$5 for this service.

(c) The Department of Agriculture and Consumer Services State shall, within 90 days after the date of receipt of the items listed in subsection (5):

1. Issue the license; or

2. Deny the application based solely on the ground that the applicant fails to qualify under the criteria listed in subsection (2) or subsection (3). If the Department of Agriculture and Consumer Services State denies the application, it shall notify the applicant in writing, stating the ground for denial and informing the applicant of any right to a hearing pursuant to chapter 120.

3. In the event the department receives criminal history information with no final disposition on a crime which may disqualify the applicant, the time limitation prescribed by this paragraph may be suspended until receipt of the final disposition or proof of restoration of civil and firearm rights.

(d) In the event a legible set of fingerprints, as determined by the Department of Agriculture and Consumer Services State or the Federal Bureau of Investigation, cannot be obtained after two attempts, the Department of Agriculture and Consumer Services State shall determine eligibility based upon the name checks conducted by the Florida Department of Law Enforcement.

(e) A consular security official of a foreign government that maintains diplomatic relations and treaties of commerce, friendship, and navigation with the United States and is certified as such by the foreign government and by the appropriate embassy in this country must be issued a license within 20 days after the date of the receipt of a completed application, certification document, color photograph as specified in paragraph (5)(e), and a nonrefundable license fee of \$300. Consular security official licenses shall be valid for 1 year and may be renewed upon completion of the application process as provided in this section.

(7) The Department of Agriculture and Consumer Services State shall maintain an automated listing of licenseholders and pertinent information, and such information shall be available on-line, upon request, at all times to all law enforcement agencies through the Florida Crime Information Center.

(8) Within 30 days after the changing of a permanent address, or within 30 days after having a license lost or destroyed, the licensee shall notify the

Department of Agriculture and Consumer Services State of such change. Failure to notify the Department of Agriculture and Consumer Services State pursuant to the provisions of this subsection shall constitute a non-criminal violation with a penalty of \$25.

(9) In the event that a concealed weapon or firearm license is lost or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may, upon payment of \$15 to the Department of Agriculture and Consumer Services State, obtain a duplicate, or substitute thereof, upon furnishing a notarized statement to the Department of Agriculture and Consumer Services State that such license has been lost or destroyed.

(10) A license issued under this section shall be suspended or revoked pursuant to chapter 120 if the licensee:

- (a) Is found to be ineligible under the criteria set forth in subsection (2);
- (b) Develops or sustains a physical infirmity which prevents the safe handling of a weapon or firearm;
- (c) Is convicted of a felony which would make the licensee ineligible to possess a firearm pursuant to s. 790.23;
- (d) Is found guilty of a crime under the provisions of chapter 893, or similar laws of any other state, relating to controlled substances;
- (e) Is committed as a substance abuser under chapter 397, or is deemed a habitual offender under s. 856.011(3), or similar laws of any other state;
- (f) Is convicted of a second violation of s. 316.193, or a similar law of another state, within 3 years of a previous conviction of such section, or similar law of another state, even though the first violation may have occurred prior to the date on which the application was submitted;
- (g) Is adjudicated an incapacitated person under s. 744.331, or similar laws of any other state; or
- (h) Is committed to a mental institution under chapter 394, or similar laws of any other state.

(11) No less than 90 days prior to the expiration date of the license, the Department of Agriculture and Consumer Services State shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the Department of Agriculture and Consumer Services State. The licensee must renew his or her license on or before the expiration date by filing with the Department of Agriculture and Consumer Services State the renewal form containing a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections (2) and (3), a color photograph as specified in paragraph (5)(e), and the required renewal fee. Out-of-state residents must also submit a completed fingerprint card and fingerprint processing fee. The license shall be renewed upon receipt of the completed renewal form, color photograph, appropriate payment of fees,

and, if applicable, a completed fingerprint card. Additionally, a licensee who fails to file a renewal application on or before its expiration date must renew his or her license by paying a late fee of \$15. No license shall be renewed 6 months or more after its expiration date, and such license shall be deemed to be permanently expired. A person whose license has been permanently expired may reapply for licensure; however, an application for licensure and fees pursuant to subsection (5) must be submitted, and a background investigation shall be conducted pursuant to the provisions of this section. Persons who knowingly file false information pursuant to this subsection shall be subject to criminal prosecution under s. 837.06.

(12) No license issued pursuant to this section shall authorize any person to carry a concealed weapon or firearm into any place of nuisance as defined in s. 823.05; any police, sheriff, or highway patrol station; any detention facility, prison, or jail; any courthouse; any courtroom, except that nothing in this section would preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in his or her courtroom; 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 school administration building; 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 elementary or secondary school facility; any area technical center; any college or university facility unless the licensee is a registered student, employee, or faculty member of such college or university and the weapon is a stun gun or nonlethal electric weapon or device designed solely for defensive purposes and the weapon does not fire a dart or projectile; inside the passenger terminal and sterile area of any airport, provided that no person shall be prohibited from carrying any legal firearm into the terminal, which firearm is encased for shipment for purposes of checking such firearm as baggage to be lawfully transported on any aircraft; or any place where the carrying of firearms is prohibited by federal law. Any person who willfully violates any provision of this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(13) All moneys collected by the department pursuant to this section shall be deposited in the Division of Licensing Trust Fund, and the Legislature shall appropriate from the fund those amounts deemed necessary to administer the provisions of this section. All revenues collected, less those costs determined by the Department of Agriculture and Consumer Services State to be nonrecurring or one-time costs, shall be deferred over the 3-year licensure period. Notwithstanding the provisions of s. 493.6117, all moneys collected pursuant to this section shall not revert to the General Revenue Fund; however, this shall not abrogate the requirement for payment of the service charge imposed pursuant to chapter 215.

(14) All funds received by the sheriff pursuant to the provisions of this section shall be deposited into the general revenue fund of the county and shall be budgeted to the sheriff.

(15) The Legislature finds as a matter of public policy and fact that it is necessary to provide statewide uniform standards for issuing licenses to

carry concealed weapons and firearms for self-defense and finds it necessary to occupy the field of regulation of the bearing of concealed weapons or firearms for self-defense to ensure that no honest, law-abiding person who qualifies under the provisions of this section is subjectively or arbitrarily denied his or her rights. The Department of Agriculture and Consumer Services State shall implement and administer the provisions of this section. The Legislature does not delegate to the Department of Agriculture and Consumer Services State the authority to regulate or restrict the issuing of licenses provided for in this section, beyond those provisions contained in this section. Subjective or arbitrary actions or rules which encumber the issuing process by placing burdens on the applicant beyond those sworn statements and specified documents detailed in this section or which create restrictions beyond those specified in this section are in conflict with the intent of this section and are prohibited. This section shall be liberally construed to carry out the constitutional right to bear arms for self-defense. This section is supplemental and additional to existing rights to bear arms, and nothing in this section shall impair or diminish such rights.

(16) The Department of Agriculture and Consumer Services State shall maintain statistical information on the number of licenses issued, revoked, suspended, and denied.

(17) As amended by chapter 87-24, Laws of Florida, this section shall be known and may be cited as the “Jack Hagler Self Defense Act.”

Section 11. Subsection (5) of section 316.515, Florida Statutes, is amended to read:

316.515 Maximum width, height, length.—

(5) IMPLEMENTS OF HUSBANDRY, AGRICULTURAL TRAILERS, SAFETY REQUIREMENTS.—Notwithstanding any other provisions of law, straight trucks and cotton module movers, not exceeding 50 feet in length, or any combination of up to and including three implements of husbandry including the towing power unit, and any single agricultural trailer, with a load thereon not exceeding 130 inches in width, is authorized for the purpose of transporting peanuts, grains, soybeans, cotton, hay, straw, or other perishable farm products from their point of production to the first point of change of custody or of long-term storage, and for the purpose of returning to such point of production, by a person engaged in the production of any such product or custom hauler, if such vehicle or combination of vehicles otherwise complies with this section. Such vehicles shall be operated in accordance with all safety requirements prescribed by law and Department of Transportation rules. The Department of Transportation may issue over-length permits for cotton module movers greater than 50 feet but not more than 55 feet in overall length.

Section 12. Subsections (2) and (3) of section 370.31, Florida Statutes, are amended to read:

370.31 Commercial production of sturgeon.—

(2) CREATION.—The Sturgeon Production Working Group is created within the Department of Agriculture and Consumer Services Environmental Protection and shall be composed of seven ~~six~~ members as follows:

(a) The head of the sturgeon research program or designee from the University of Florida, Institute of Food and Agricultural Sciences. Such member shall be appointed by the University of Florida's Vice President for Agricultural Affairs.

(b) One representative from the Department of Environmental Protection to be appointed by the Secretary of Environmental Protection.

(c) One representative from the Fish and Wildlife Conservation Commission to be appointed by the executive director of the Fish and Wildlife Conservation Commission.

(d) One representative from the Department of Agriculture and Consumer Services to be appointed by the Commissioner of Agriculture.

(e) Two representatives from the aquaculture industry to be appointed by the Aquaculture Review Council.

(f) One representative from a private nonprofit organization involved in sturgeon production work, to be appointed by the Commissioner of Agriculture.

(3) MEETINGS; PROCEDURES; RECORDS.—The working group shall meet at least twice a year and elect, by a quorum, a chair and, vice chair, ~~and secretary~~.

(a) The chair of the working group shall preside at all meetings and shall call a meeting as often as necessary to carry out the provisions of this section. ~~To call a meeting, the chair shall solicit an agreement to meet from at least two other working group members and then notify any remaining members of the meeting.~~

(b) The Department of Agriculture and Consumer Services ~~secretary~~ shall keep a complete record of the proceedings of each meeting, which includes the names of the members present at each meeting and the actions taken. ~~Such records shall be kept on file with the Department of Environmental Protection with copies filed with the Department of Fisheries and Aquatic Sciences at the University of Florida.~~ The records shall be public records pursuant to chapter 119.

(c) A quorum shall consist of a majority of the group members. Members of the group shall not receive compensation, but shall be entitled to per diem and travel expenses, including attendance at meetings, as allowed public officers and employees pursuant to s. 112.061 ~~one representative from the Department of Environmental Protection, one representative from the Institute of Food and Agricultural Sciences, and at least two other members.~~

Section 13. Section 388.261, Florida Statutes, is amended to read:

388.261 State aid to counties and districts for arthropod control; distribution priorities and limitations.—

(1) ~~Every county or district budgeting local funds, derived either by special tax levy or funds appropriated or otherwise made available for the control of mosquitoes and other arthropods under a plan submitted by the county or district and upon approval by the department, shall be eligible to receive state funds, supplies, services, and equipment on a dollar-for-dollar matching basis up to but not exceeding \$30,000 for any one county for any one year.~~ A county or district may, without contributing matching funds, receive state funds, supplies, services, or equipment in an amount of no more than ~~\$50,000~~ \$30,000 per year for up to 3 years for any new or ~~expanded~~ program for the control of mosquitoes and other arthropods which serves an area not previously served by the county or district. These funds may be expended for any and all types of control measures approved by the department.

(2) ~~In addition,~~ Every county or district budgeting local funds to be used exclusively for the control of mosquitoes and other arthropods, under a plan submitted by the county or district and approved by the department, shall be eligible to receive state funds and supplies, services, and equipment on a dollar-for-dollar matching basis to for control measures up to but not exceeding 50 percent of the amount of local funds budgeted for such control. Should state funds appropriated by the Legislature be insufficient to grant each county or district state funds on a dollar-for-dollar matching basis to 50 percent of the amount budgeted in local funds, the department shall prorate said state funds based on the amount of matchable local funds budgeted for expenditure by each county or district.

(3) Every county shall be limited to receive a total of ~~\$120,000~~ \$100,000 of state funds, exclusive of state funds brought forward, during any one year; however, a county or district that receives funds under subsection (1) for service to an area not previously served may receive up to \$130,000 during any one year.

(4) Up to 20 percent of the annual funds appropriated to local governments for arthropod control may be used for arthropod control research or demonstration projects as approved by the department.

(5) If more than one local mosquito control agency exists in a county, the funds shall be prorated between the agencies based on the population served by each agency.

(6) The Commissioner of Agriculture may exempt counties or districts from the requirements in subsection (1), subsection (2), or subsection (3) when the department determines state funds, supplies, services, or equipment are necessary for the immediate control of mosquitoes and other arthropods that pose a threat to human or animal health.

(7) The department may use state funds appropriated for a county or district under subsection (1) or subsection (2) to provide state mosquito or other arthropod control equipment, supplies, or services when requested by a county or district eligible to receive state funds under s. 388.271.

(8) The department is authorized to use up to 5 percent of the funds appropriated annually by the Legislature under this section to provide technical assistance to the counties or districts, or to purchase equipment, supplies, or services necessary to administer the provisions of this chapter.

Section 14. Subsection (2) of section 388.281, Florida Statutes, is amended to read:

388.281 Use of state matching funds.—

(2) All funds, supplies, and services released on the dollar-for-dollar 50-percent matching basis shall be used exclusively for an integrated program that provides a combination of mosquito control, source reduction measures, public education, personnel training and certification, arthropod population surveillance, research and demonstration projects, larvicides, adulticides, equipment, and public epidemic alerts as approved by the department. Source reduction measures may include measures to improve management and enhance the ecological integrity of source reduction areas. If source reduction measures require permits, approvals, or agreement by federal, state, regional, or local agencies, such permits, approvals, or agreement shall be obtained prior to commencement of the source reduction project. These measures include sanitary landfills, drainage, diking, filling of arthropod breeding areas, and the purchase, maintenance, and operation of all types of equipment including trucks, dredges, draglines, bulldozers, or any other type of machinery and materials utilized in ditching, ditch lining, ditch construction, diking, filling, hiring personnel, rental of equipment, and payment for contract work awarded to the lowest responsible bidder.

Section 15. Subsection (6) of section 388.361, Florida Statutes, is amended, and subsection (7) is added to that section, to read:

388.361 Department authority and rules; administration.—

(6) The department shall have the authority to cooperate with federal, and state, and local agencies and to enter into such cooperative agreements or commitments as the department may determine necessary to carry out and enforce the provisions of this chapter.

(7) The department shall have the authority to collect, detect, suppress, and control mosquitoes and other arthropods that are determined by the State Health Officer to pose a threat to public health, or determined by the Commissioner of Agriculture to pose a threat to animal health, wherever they may occur on public or private land in this state, and to do all things necessary in the exercise of such authority. Prior to the start of treatments for the control of mosquitoes or other arthropods, the department shall consult with the mosquito control districts in the proposed treatment areas, the Department of Health, the Department of Environmental Protection, and the Fish and Wildlife Conservation Commission regarding the proposed locations, dates, and methods to be used.

Section 16. Section 388.45, Florida Statutes, is amended to read:

388.45 Threat to public or animal health; ~~emergency~~ declarations.—

(1) The State Health Officer has the authority to declare that a threat to public health exists when the Department of Health discovers in the human or surrogate population the occurrence of an infectious disease that can be transmitted from mosquitoes or other arthropods to humans. The State Health Officer must immediately notify the Commissioner of Agriculture of the declaration of this threat to public health. The Commissioner of Agriculture is authorized to issue a mosquito or other arthropod an emergency declaration in those counties needing additional mosquito or other arthropod control measures based on the State Health Officer's declaration of a threat to the public health ~~or based on other threats to animal health~~. Each declaration must contain the geographical boundaries and the duration of the declaration. The State Health Officer shall order such human medical preventive treatment and the Commissioner of Agriculture shall order such ameliorative mosquito or other arthropod control measures as are necessary to prevent the spread of disease, notwithstanding contrary provisions of this chapter or the rules adopted under this chapter. Within 24 hours after a declaration of a threat to the public health, the State Health Officer must also notify the agency heads of the Department of Environmental Protection and the Fish and Wildlife Conservation Commission of the declaration. Within 24 hours after a ~~mosquito or other arthropod an emergency declaration based on the public health declaration or based on other threats to animal health~~, the Commissioner of Agriculture must notify the agency heads of the Department of Environmental Protection and the Fish and Wildlife Conservation Commission of the declaration. ~~Within 24 hours after an emergency declaration based on other threats to animal health, the Commissioner of Agriculture must also notify the agency head of the Department of Health of the declaration.~~

(2) The Commissioner of Agriculture has the authority to declare that a threat to animal health exists when the department discovers the occurrence of an infectious disease in animals that can be transmitted by mosquitoes or other arthropods and is authorized to issue an animal health declaration in those counties needing additional veterinary care or mosquito or other arthropod control measures based on a threat to animal health. Each declaration must contain the geographical boundaries and the duration of the declaration. The Commissioner of Agriculture shall order such veterinary treatment or ameliorative mosquito or other arthropod control measures as are necessary to prevent the spread of disease, notwithstanding contrary provisions of this chapter or the rules adopted under this chapter. The Commissioner of Agriculture shall immediately notify the State Health Officer and the agency heads of the Department of Environmental Protection and the Fish and Wildlife Conservation Commission upon issuance of an animal health declaration.

Section 17. Subsection (11) of section 403.067, Florida Statutes, is amended to read:

403.067 Establishment and implementation of total maximum daily loads.—

(11) IMPLEMENTATION OF ADDITIONAL PROGRAMS.—

(a) The department shall not implement, without prior legislative approval, any additional regulatory authority pursuant to s. 303(d) of the Clean Water Act or 40 C.F.R. part 130, if such implementation would result in water quality discharge regulation of activities not currently subject to regulation.

(b) Interim measures, best-management practices, or other measures may be developed and voluntarily implemented pursuant to paragraph (7)(c) or paragraph (7)(d) for any water body or segment for which a total maximum daily load or allocation has not been established. The implementation of such pollution-control programs may be considered by the department in the determination made pursuant to subsection (4).

Section 18. Paragraph (k) is added to subsection (12) of section 403.707, Florida Statutes, to read:

403.707 Permits.—

(12) The department shall establish a separate category for solid waste management facilities which accept only construction and demolition debris for disposal or recycling. The department shall establish a reasonable schedule for existing facilities to comply with this section to avoid undue hardship to such facilities. However, a permitted solid waste disposal unit which receives a significant amount of waste prior to the compliance deadline established in this schedule shall not be required to be retrofitted with liners or leachate control systems. Facilities accepting materials defined in s. 403.703(17)(b) must implement a groundwater monitoring system adequate to detect contaminants that may reasonably be expected to result from such disposal prior to the acceptance of those materials.

(k) Brazilian pepper and other invasive exotic plant species as designated by the department resulting from eradication projects may be processed at permitted construction and demolition debris recycling facilities or disposed of at permitted construction and demolition debris disposal facilities or Class III facilities. The department may adopt rules to implement this paragraph.

Section 19. Paragraph (e) of subsection (3) of section 403.709, Florida Statutes, is amended to read:

403.709 Solid Waste Management Trust Fund; use of waste tire fee moneys; waste tire site management.—

(3) Moneys allocated to the fund from waste tire fees shall be used:

(e) At least 10 percent of the revenues deposited in the fund annually from waste tire fees shall be allocated as additional grants to local mosquito control agencies in accordance with s. 388.261 for the specific purpose of abating and providing mosquito control relating to waste tire sites, other tire piles, and other sites identified by local mosquito control agencies as mosquito breeding areas. Only local mosquito control agencies approved by the Department of Agriculture and Consumer Services may receive funds pursuant to this paragraph. ~~Each county with an eligible local mosquito control~~

~~agency shall be allocated a minimum of \$15,000 pursuant to this paragraph. Any remaining funds under this paragraph shall be distributed to eligible local mosquito control agencies on the basis of county population. If more than one local mosquito control agency exists in a county, the funds shall be prorated between the agencies based on the population served by each agency.~~

Section 20. Section 482.227, Florida Statutes, is amended to read:

482.227 Guarantees and warranties.—

(1) The Legislature finds that the terms “guarantee” and “warranty” are common in contracts for the treatment of wood-destroying organisms and intends to clarify that the purpose of this section is to assure that the consumer understands whether a contract contains a “guarantee” or “warranty” for repair and retreatment or for retreatment only or contains no guarantee. Unless the contract for treatment of wood-destroying organisms indicates conspicuously on the front page whether the guarantee or warranty is for repair and retreatment or for retreatment only or that no guarantee or warranty is offered, the term “guarantee” or “warranty” may be used in a contract for treatment of wood-destroying organisms only in the following circumstances:

(a) If the licensee promises to ~~repair~~ restore any property damaged by wood-destroying organisms during a specified period after the treatment, the term “full” or “unlimited” must be used together with the term “guarantee” or “warranty” wherever that term occurs other than in a disclaimer under subsection (2).

(b) If the licensee promises only to provide additional treatment if infestation occurs during a specified period after treatment, the term “limited” must be used with the term “guarantee” or “warranty” wherever that term occurs other than in a disclaimer under subsection (2).

(c) If the licensee does not promise to repair ~~restore~~ the property or provide additional treatment, the term “guarantee” or “warranty” may not be used except in a disclaimer under subsection (2).

(2) A disclaimer indicating that no guarantee or warranty is offered under the contract. Any statement disclaiming an expressed or implied guarantee or warranty must appear in conspicuous type on the face of the contract.

Section 21. Effective October 1, 2003, section 482.227, Florida Statutes, as amended by this act, is amended to read:

482.227 Guarantees and warranties; contracts executed after October 1, 2003.—

(1) The Legislature finds that the terms “guarantee” and “warranty” are common in contracts for the treatment of wood-destroying organisms, and intends to clarify that The purpose of this section is to assure that contract language describing the consumer understands whether a contract contains

~~a “guarantee” or “warranty” is clear and easily identifiable for the protection of consumers and licensees for repair and retreatment or for retreatment only or contains no guarantee. Therefore the following provisions shall apply to each new contract for the treatment of wood-destroying organisms issued by the licensee and signed by the customer after October 1, 2003. Unless the contract for treatment of wood-destroying organisms indicates conspicuously on the front page whether the guarantee or warranty is for repair and re-treatment or for re-treatment only or that no guaranty or warranty is offered, the term “guarantee” or “warranty” may be used in a contract for treatment of wood-destroying organisms only in the following circumstances:~~

~~(a) If the licensee promises to repair any property damaged by wood-destroying organisms during a specified period after the treatment, the term “full” or “unlimited” must be used together with the term “guarantee” or “warranty” wherever that term occurs other than in a disclaimer under subsection (2).~~

~~(b) If the licensee promises only to provide additional treatment if infestation occurs during a specified period after treatment, the term “limited” must be used with the term “guarantee” or “warranty” wherever that term occurs other than in a disclaimer under subsection (2).~~

~~(c) If the licensee does not promise to repair the property or provide additional treatment, the term “guarantee” or “warranty” may not be used except in a disclaimer under subsection (2).~~

~~(2) Any contract for treatment of wood-destroying organisms must specify on the first page in bold print that it is offered for repair and retreatment or for retreatment only or that no warranty or guarantee is offered. A disclaimer indicating that no guarantee or warranty is offered under the contract must appear in conspicuous type on the face of the contract.~~

~~(3) The contract for treatment of wood-destroying organisms must specify on the first page in bold print whether there are any disclaimers, limitations, conditions, or exclusions on the licensee’s obligation to repair or retreat the property. Contract sections describing disclaimers, limitations, conditions, or exclusions applicable to the licensee’s obligation to repair or retreat the property must contain headings in bold print.~~

~~(4) If a contract for treatment of wood-destroying organisms contains a disclaimer, limitation, condition, or exclusion applicable to the licensee’s obligation to repair or retreat the property, the term “full” or “unlimited” may not be used together with the term “guarantee” or “warranty.”~~

~~Section 22. It is the intent of the Legislature to phase in the requirements set forth in section 11 to provide that the requirements of section 482.227, Florida Statutes, as amended by section 11 apply only to contracts for the treatment of wood-destroying organisms issued by the licensee and signed by the customer on or after October 1, 2003.~~

~~Section 23. Subsection (3) of section 482.2401, Florida Statutes, is amended to read:~~

482.2401 Disposition and use of revenues from fees and fines.—

(3) All revenues from administrative fines shall be used to support contract research or education in all pest control categories. The department shall appoint a committee composed of pest control industry members which shall assist the department in establishing research or education priorities, in developing requests for proposals for bids, and in selecting research or education contractors from qualified bidders.

Section 24. Section 482.243, Florida Statutes, is created to read:

482.243 Pest Control Enforcement Advisory Council.—

(1) The Pest Control Enforcement Advisory Council is created within the department. The Commissioner of Agriculture shall appoint all members of the council. The purpose of the council is to advise the Commissioner of Agriculture regarding the regulation of pest control practices and to advise government agencies with respect to those activities related to their responsibilities regarding pest control. The council shall serve as the statewide forum for the coordination of pest control related activities to eliminate duplication of effort and maximize protection of the public.

(2) The council shall consist of 11 members as follows: a representative of the department; a citizen not involved in the conduct of pest control; a state university urban entomologist; and eight persons each holding a pest control operator's certificate issued under s. 482.111, of whom two shall be actively involved in termite control, two shall be actively involved in general household pest control, two shall be actively involved in structural fumigation, and two shall be actively involved in lawn and landscape pest control. Each member shall be appointed for a term of 4 years and shall serve until a successor is appointed.

(3) In conducting its meetings, the council shall use Robert's Rules of Order. A majority of the members of the council constitutes a quorum for all purposes, and an act by a majority of such quorum at any meeting constitutes an official act of the council. The secretary shall keep a complete record of each meeting which must show the names of members present and the actions taken. These records must be kept on file with the department, and these records and other documents about matters within the jurisdiction of the council are subject to inspection by members of the council.

(4) The members of the council shall meet and organize by electing a chair, a vice chair, and a secretary whose terms shall be for 1 year each. Council officers may not serve consecutive terms.

(5) The council shall meet at the call of its chair, at the request of a majority of its members, at the request of the department, or at such time as a public health or environmental emergency arises.

(6) The meetings, powers and duties, procedures, recordkeeping, and reimbursement of expenses of members of the council shall be in accordance with the provisions of s. 570.0705 relating to advisory committees established within the department.

(7) The council shall receive reports of pest control enforcement activity conducted by the Division of Agricultural Environmental Services, which shall include numbers of cases, numbers of administrative actions, numbers of complaints received and investigated, and dispositions of complaints; provide advice to the department on the conduct of pest control enforcement activities; receive reports on disciplinary actions, provided that the names of individual licensees shall be expunged from cases discussed before the council, unless a consent order or final order has been issued in the case; and make recommendations, subject to a majority vote, directly to the Commissioner of Agriculture for actions to be taken with respect to the regulation of pest control services and practices that the council has reviewed.

Section 25. Subsection (2) of section 487.041, Florida Statutes, is amended to read:

487.041 Registration.—

(2) For the purpose of defraying expenses of the department in connection with carrying out the provisions of this chapter, each person shall pay an annual registration fee of ~~\$250~~ \$225 for each registered pesticide. The annual registration fee for each special local need label and experimental use permit shall be \$100. All registrations expire on December 31 of each year. Nothing in this section shall be construed as applying to distributors or retail dealers selling pesticides when such pesticides are registered by another person.

Section 26. Subsection (6) is added to section 500.121, Florida Statutes, to read:

500.121 Disciplinary procedures.—

(6) If the department determines that a food offered in a food establishment is labeled with nutrient claims that are in violation of this chapter, the department shall retest or reexamine the product within 90 days after notification to the manufacturer and to the firm at which the product was collected. If the product is again found in violation, the department shall test or examine the product for a third time within 60 days after the second notification. The product manufacturer shall reimburse the department for the cost of the third test or examination. If the product is found in violation for a third time, the department shall exercise its authority under s. 500.172 and issue a stop-sale or stop-use order. The department may impose additional sanctions for violations of this subsection.

Section 27. Subsection (3) is added to section 500.148, Florida Statutes, to read:

500.148 Reports and dissemination of information.—

(3) Upon request of a food establishment, the department may issue a report certifying that the requesting food establishment currently complies with the sanitation and permitting requirements of this chapter and the rules promulgated thereunder. Such certification may be requested for the purpose of exporting food to a foreign country. The department is authorized

to recover the cost associated with carrying out the provisions of this subsection, the amount of which shall be set by rule.

Section 28. Subsection (8) is added to section 501.160, Florida Statutes, to read:

501.160 Rental or sale of essential commodities during a declared state of emergency; prohibition against unconscionable prices.—

(8) Any violation of this section may be enforced by the Department of Agriculture and Consumer Services, the office of the state attorney, or the Department of Legal Affairs.

Section 29. Subsection (35) of section 570.07, Florida Statutes, is amended 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:

(35) Under emergency conditions, to authorize the purchase of supplemental nutritional food and drink items, provide meals when personnel cannot leave an emergency incident location, and set temporary meal expenditure limits for employees engaged in physical activity for prolonged periods of time in excess of the rate established by s. 112.061(6), but not to exceed \$50 per day.

Section 30. Subsection (8) of section 573.124, Florida Statutes, is amended to read:

573.124 Penalties; violation; hearings.—

(8) It shall be a ~~felony of the third degree misdemeanor of the second degree,~~ punishable as provided in s. 775.082 or s. 775.083, for:

(a) Any person to willfully render or furnish a false or fraudulent report, statement, or record required by the department, or any marketing agreement or marketing order effective thereunder.

(b) Any person engaged in the handling of any agricultural commodity or in the wholesale or retail trade thereof to fail or refuse to furnish to the department or its duly authorized agents, upon request, information concerning the name and address of the persons from whom he or she has received any agricultural commodity regulated by a marketing order issued and in effect hereunder, and the quantity of the commodity so received.

Section 31. Section 581.091, Florida Statutes, is amended to read:

581.091 Noxious weeds and infected plants or regulated articles; sale or distribution; receipt; information to department; withholding information.—

(1) It is unlawful for any person to knowingly sell, offer for sale, or distribute any noxious weed, or any plant or plant product or regulated

article infested or infected with any plant pest declared, by rule of the department, to be a public nuisance or a threat to the state's agricultural and horticultural interests.

(2) Any person who knows or reasonably should know that such person possesses or has knowingly received any noxious weed or any plant, plant product, or regulated article sold, given away, carried, shipped, or delivered for carriage or shipment in violation of the provisions of this chapter or the rules adopted thereunder shall immediately inform the department and isolate and hold the weed, plant, plant product, or other thing unopened or unused subject to inspection or other disposition as may be provided by the department.

(3) It is unlawful for any person to fail to disclose or withhold available information regarding any infected or infested plant, plant product, regulated article, or noxious weed.

(4) The department, in conjunction with the Institute of Food and Agricultural Sciences at the University of Florida, shall biennially review the official state lists of noxious weeds and invasive plants as provided for under this chapter and department rules. The plants listed in s. 369.251 shall be incorporated into the department lists as provided for under this chapter. A water management district when identifying by rule pursuant to s. 373.185, or a local government when identifying by ordinance or regulation adopted on or after March 1, 2002, a list of noxious weeds, invasive plants, or plants deemed to be a public nuisance or threat, shall only adopt the lists developed under this chapter or rules adopted thereunder. All local government ordinances or regulations, adopted prior to March 1, 2002, that list noxious weeds or invasive plants shall remain in effect. All local ordinances or regulations requiring the removal of invasive plants or noxious weeds from publicly or privately owned conservation areas or preserves shall be exempt from the limitations in this subsection.

Section 32. Subsection (5) of section 585.002, Florida Statutes, is amended to read:

585.002 Department control; continuance of powers, duties, rules, orders, etc.—

(5) The department shall, by rule, establish a fee schedule to cover the approximate costs associated with carrying out the provisions of this chapter. This shall include establishment of fees for provision of health forms, required certificates, certifications, permits, quality assurance programs, and services. No individual fee shall exceed \$200, except that the fee for carrying out the quarantine requirements relating to horses imported from countries where contagious equine metritis exists shall not exceed \$1,500. These fees shall be deposited in the department's General Inspection Trust Fund.

Section 33. Subsection (5) is added to section 585.08, Florida Statutes, to read:

585.08 General powers of the department; rules.—The Division of Animal Industry is authorized to:

(5) Condemn and destroy any animal that is liable to spread any contagious, infectious, or communicable disease based upon sound epidemiological facts and conclusions to prevent the further spread of disease when a state or agricultural declaration of emergency has been declared by the Governor or the Commissioner of Agriculture.

Section 34. Section 585.09, Florida Statutes, is amended to read:

585.09 Procedure for condemnation of animals and property by department.—Condemnation and destruction of animals, barns, yards, sheds, corrals, and pens, as provided in s. 585.08, shall take place only after a fair appraisal of the value of the property. The value shall be determined by the department and the owner; provided, however, should the department and the owner be unable to agree on a value, the value shall then be determined by three disinterested appraisers, one to be appointed by the department, one by the owner of the property, and the third to be selected by these two. The appraised price, ~~subject to the provisions of s. 585.10,~~ shall be paid by the department as other expenses are paid. If the owner of such animal, barn, yard, shed, corral, or pen fails or refuses to name an appraiser within 5 days after requested by the department to do so, or refuses to permit the property to be condemned and destroyed, the department may make an order to the sheriff of the county wherein the property lies, directing her or him to destroy such animal, barn, yard, shed, corral, or pen, in the manner to be prescribed in the order. The order shall be immediately executed by the sheriff. Upon the destruction of the property by the sheriff, the department shall have the right to recover, from the owner of the property destroyed, all costs and expenses incurred by it in connection with the destruction.

Section 35. Section 585.10, Florida Statutes, is repealed.

Section 36. Section 585.11, Florida Statutes, is amended to read:

585.11 Cooperation with United States authorities and United States Department of Agriculture accredited private veterinarians.—The department may cooperate with:

(1) The authorities of the United States in the enforcement of all acts of Congress for the control, prevention, suppression, and eradication of contagious, infectious, and communicable diseases affecting animals, or animal diseases which may affect humans, and in connection therewith may:

(a) Appoint inspectors of the United States Department of Agriculture as temporary assistant state veterinarians or livestock inspectors; provided, they shall first consent to act without compensation or profit from the state;

(b) Accept aid or assistance from the United States in conducting work related to the control or eradication of tuberculosis, brucellosis, pseudorabies, hog cholera, and any other such dangerous disease, or from any of its officers, representatives, or agents, in carrying out such work.

(2) The officials of the United States Department of Agriculture in the control or eradication of tuberculosis, brucellosis, pseudorabies, and hog cholera and with the owners of animals, who accept indemnity for animals found to be diseased and slaughtered in accordance with the special Acts of Congress now in effect and appropriating funds for this purpose, or that may hereafter be available from such source.

(3) The United States Department of Agriculture in carrying out the provisions of the National Poultry Improvement Plan and the National Turkey Improvement Plan in Florida, and in connection therewith, may promulgate rules necessary to carry out the provisions of the National Poultry Improvement Plan and the National Turkey Improvement Plan in Florida.

(4) Appointed United States Department of Agriculture accredited private veterinarians in conducting work related to the control or eradication of contagious and infectious diseases, who may be compensated for services.

Section 37. Subsection (1) of section 585.21, Florida Statutes, is amended to read:

585.21 Sale of biological products.—

(1) Each biological product intended for diagnostic or therapeutic purposes for animals which is manufactured for sale or sold in the state shall first be officially approved by the United States Department of Agriculture and shall have written permission of the Department of Agriculture and Consumer Services prior to sale in the state.

Section 38. Subsection (3) of section 585.61, Florida Statutes, is amended to read:

585.61 Animal disease diagnostic laboratories.—

(3) Any person who maintains animals in the state may use the services of the laboratories under the terms of this section and the rules adopted for such use by the department. The department shall require any user of its services to pay a fee not to exceed \$300 ~~\$15~~ for any one of the services requested, ~~except that a fee for necropsy may be imposed in an amount not to exceed \$70.~~ All laboratory fees collected shall be deposited in the Animal Industry Diagnostic Laboratory Account within the General Inspection Trust Fund. The fees collected shall be used to improve the diagnostic laboratory services as provided for by the Legislature in the General Appropriations Act.

Section 39. Subsections (1) and (5) of section 590.02, Florida Statutes, are amended to read:

590.02 Division powers, authority, and duties; liability; building structures; Florida Center for Wildfire and Forest Resources Management Training.—

(1) The division has the following powers, authority, and duties:

- (a) To enforce the provisions of this chapter;
- (b) To prevent, detect, suppress, and extinguish wildfires wherever they may occur on public or private land in this state and to do all things necessary in the exercise of such powers, authority, and duties;
- (c) To provide firefighting crews, who shall be under the control and direction of the division and its designated agents;
- (d) To appoint center managers, forest area supervisors, forestry program administrators, a forest protection bureau chief, a forest protection assistant bureau chief, a field operations bureau chief, deputy chiefs of field operations, district managers, senior forest rangers, investigators, forest rangers, firefighter rotorcraft pilots, and other employees who may, at the division's discretion, be certified as forestry firefighters pursuant to s. 633.35(4). Other provisions of law notwithstanding, center managers, district managers, forest protection assistant bureau chief, and deputy chiefs of field operations shall have Selected Exempt Service status in the state personnel designation;
- (e) To develop a training curriculum for forestry firefighters which must contain the basic volunteer structural fire training course approved by the Florida State Fire College of the Division of State Fire Marshal and a minimum of 250 hours of wildfire training;
- (f) To make rules to accomplish the purposes of this chapter; ~~and~~
- (g) To provide fire management services and emergency response assistance and to set and charge reasonable fees for performance of those services. Moneys collected from such fees shall be deposited into the Incidental Trust Fund of the division; ~~and~~.
- (h) To require all state, regional, and local government agencies operating aircraft in the vicinity of an ongoing wildfire to operate in compliance with the applicable state Wildfire Aviation Plan.

(5) The division shall organize its operational units to most effectively prevent, detect, and suppress wildfires, and to that end, may employ the necessary personnel to manage its activities in each unit. The division may construct lookout towers, roads, bridges, firelines, and other facilities and may purchase or fabricate tools, supplies, and equipment for firefighting. The division may reimburse the public and private entities that it engages to assist in the suppression of wildfires for their personnel and equipment, including aircraft.

(a) The Cross City Work Center shall be named the L. Earl Peterson Forestry Station. This is to honor Mr. L. Earl Peterson. Florida's sixth state forester, whose distinguished career in state government has spanned 44 years and who is a native of Dixie County.

Section 40. Section 590.11, Florida Statutes, is amended to read:

590.11 Recreational fires.—

(1) It is unlawful for any individual or group of individuals to build a warming fire, bonfire, or campfire and leave it unattended or unextinguished.

(2) Anyone who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 41. Paragraph (b) of subsection (3) and subsections (4) and (5) of section 590.125, Florida Statutes, are amended to read:

590.125 Open burning authorized by the division.—

(3) CERTIFIED PRESCRIBED BURNING; LEGISLATIVE FINDINGS AND PURPOSE.—

(b) Certified prescribed burning pertains only to broadcast burning. It must be conducted in accordance with this subsection and:

1. May ~~only~~ be accomplished only when a certified prescribed burn manager is present on site with a copy of the prescription from ignition of the burn to its completion.

2. Requires that a written prescription be prepared before receiving authorization to burn from the division.

3. Requires that the specific consent of the landowner or his or her designee be obtained before requesting an authorization.

4. Requires that an authorization to burn be obtained from the division before igniting the burn.

5. Requires that there be adequate firebreaks at the burn site and sufficient personnel and firefighting equipment for the control of the fire.

6. Is considered to be in the public interest and does not constitute a public or private nuisance when conducted under applicable state air pollution statutes and rules.

7. Is considered to be a property right of the property owner if vegetative fuels are burned as required in this subsection.

(4) WILDFIRE HAZARD REDUCTION TREATMENT BURNING BY THE DIVISION.—The division may conduct fuel reduction initiatives, including, but not limited to, burning and mechanical and chemical treatment, on ~~prescribe burn~~ any area of wild land within the state which is reasonably determined to be in danger of wildfire in accordance with the following procedures:

(a) Describe the areas that will receive fuels treatment ~~be prescribe burned~~ to the affected local governmental entity.

(b) Publish a treatment prescribed burn notice, including a description of the area to be treated burned, in a conspicuous manner in at least one newspaper of general circulation in the area of the treatment burn not less than 10 days before the treatment burn.

(c) Prepare, and the county tax collector shall include with the annual tax statement, a notice to be sent to all landowners in each township designated by the division as a wildfire hazard area. The notice must describe particularly the area to be treated ~~burned~~ and the tentative date or dates of the treatment ~~burning~~ and must list the reasons for and the expected benefits from the wildfire hazard reduction ~~prescribed burning~~.

(d) Consider any landowner objections to the fuels treatment ~~prescribed burning~~ of his or her property. The landowner may apply to the director of the division for a review of alternative methods of fuel reduction on the property. If the director or his or her designee does not resolve the landowner objection, the director shall convene a panel made up of the local forestry unit manager, the fire chief of the jurisdiction, and the affected county or city manager, or any of their designees. If the panel's recommendation is not acceptable to the landowner, the landowner may request further consideration by the Commissioner of Agriculture or his or her designee and shall thereafter be entitled to an administrative hearing pursuant to the provisions of chapter 120.

(5) DUTIES OF AGENCIES.—The Department of Education shall incorporate, where feasible and appropriate, the issues of fuels treatment, including ~~prescribed burning~~ into its educational materials.

Section 42. Subsection (4) is added to section 597.020, Florida Statutes, to read:

597.020 Shellfish processors; regulation.—

(4) Any license or certification authorized and issued under this chapter shall automatically expire on June 30 of each year.

Section 43. Paragraph (a) of subsection (7) and paragraph (a) of subsection (14) of section 616.242, Florida Statutes, are amended to read:

616.242 Safety standards for amusement rides.—

(7) DEPARTMENT INSPECTIONS.—

(a) In order to obtain an annual permit, an amusement ride must be inspected by the department in accordance with subsection (11) and receive an inspection certificate. In addition, each permanent amusement ride must be inspected semiannually by the department in accordance with subsection (11) and receive an inspection certificate, and each temporary amusement ride must be inspected by the department in accordance with subsection (11), and must receive an inspection certificate each time the ride is set up or moved to a new location in this state unless the temporary amusement ride is:

1. Used at a private event; ~~or~~
2. A simulator, the capacity of which does not exceed 16 persons; or.
3. A kiddie ride used at a public event, provided that there are no more than three amusement rides at the event, none of the kiddie rides at the

event exceed a capacity of 12 persons, and the ride has an inspection certificate that was issued within the preceding 6 months. The capacity of a kiddie ride shall be determined by rule of the department, unless the capacity of the ride has been determined and specified by the manufacturer. Any owner of a kiddie ride operating under this exemption is responsible for ensuring that no more than three amusement rides are operated at the event.

(14) REPORTING AND INVESTIGATION OF ACCIDENTS AND DEFECTS; IMPOUNDMENTS.—

(a) Any accident of which the owner or manager has knowledge or, through the exercise of reasonable diligence should have knowledge, and for which a patron is transported to a hospital, as defined in chapter 395, must be reported by the owner or manager to the department by telephone or ~~facsimile~~ within 4 hours after the occurrence of the accident and must be followed up by a written report to the department within 24 hours after the occurrence of the accident.

Section 44. Subsection (8) of section 496.404, Florida Statutes, is amended to read:

496.404 Definitions.—As used in ss. 496.401-496.424:

(8) “Educational institutions” means those institutions and organizations described in s. 212.08(7)(cc)8.a. The term includes private nonprofit organizations, the purpose of which is to raise funds for schools teaching grades kindergarten through grade 12, colleges, and universities, including any nonprofit newspaper of free or paid circulation primarily on university or college campuses which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code, any educational television or radio network or system established pursuant to s. 229.805 or s. 229.8051, and any nonprofit television or radio station that is a part of such network or system and that holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code. The term also includes a nonprofit educational cable consortium that holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code, whose primary purpose is the delivery of educational and instructional cable television programming and whose members are composed exclusively of educational organizations that hold a valid consumer certificate of exemption and that are either an educational institution as defined in this subsection or qualified as a nonprofit organization pursuant to s. 501(c)(3) of the Internal Revenue Code.

Section 45. (1) The building known as the U.S.D.A. Service Center Building, located at 1700 Highway 17-98 South in Bartow is designated the John W. Hunt Building.

(2) The Department of Agriculture and Consumer Services is authorized to erect a suitable marker for the designation made by this section.

Section 46. Paragraph (a) of subsection (1) of section 316.640, Florida Statutes, is amended to read:

316.640 Enforcement.—The enforcement of the traffic laws of this state is vested as follows:

(1) STATE.—

(a)1.a. The Division of Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles, the Division of Law Enforcement of the Fish and Wildlife Conservation Commission, the Division of Law Enforcement of the Department of Environmental Protection, and law enforcement officers of the Department of Transportation each have authority to enforce all of the traffic laws of this state on all the streets and highways thereof and elsewhere throughout the state wherever the public has a right to travel by motor vehicle. The Division of the Florida Highway Patrol may employ as a traffic accident investigation officer any individual who successfully completes at least 200 hours of instruction in traffic accident investigation and court presentation through the Selective Traffic Enforcement Program as approved by the Criminal Justice Standards and Training Commission and funded through the National Highway Traffic Safety Administration or a similar program approved by the commission, but who does not necessarily meet the uniform minimum standards established by the commission for law enforcement officers or auxiliary law enforcement officers under chapter 943. Any such traffic accident investigation officer who makes an investigation at the scene of a traffic accident may issue traffic citations, based upon personal investigation, when he or she has reasonable and probable grounds to believe that a person who was involved in the accident committed an offense under this chapter, chapter 319, chapter 320, or chapter 322 in connection with the accident. This paragraph does not permit the carrying of firearms or other weapons, nor do such officers have arrest authority other than for the issuance of a traffic citation as authorized in this paragraph.

b. University police officers shall have authority to enforce all of the traffic laws of this state when such violations occur on or about any property or facilities that are under the guidance, supervision, regulation, or control of the State University System, except that traffic laws may be enforced off-campus when hot pursuit originates on-campus.

c. Community college police officers shall have the authority to enforce all the traffic laws of this state only when such violations occur on any property or facilities that are under the guidance, supervision, regulation, or control of the community college system.

d. Police officers employed by an airport authority shall have the authority to enforce all of the traffic laws of this state only when such violations occur on any property or facilities that are owned or operated by an airport authority.

(I) An airport authority may employ as a parking enforcement specialist any individual who successfully completes a training program established and approved by the Criminal Justice Standards and Training Commission for parking enforcement specialists but who does not otherwise meet the uniform minimum standards established by the commission for law enforcement officers or auxiliary or part-time officers under s. 943.12. Nothing in

this sub-sub-subparagraph shall be construed to permit the carrying of firearms or other weapons, nor shall such parking enforcement specialist have arrest authority.

(II) A parking enforcement specialist employed by an airport authority is authorized to enforce all state, county, and municipal laws and ordinances governing parking only when such violations are on property or facilities owned or operated by the airport authority employing the specialist, by appropriate state, county, or municipal traffic citation.

e. The Office of Agricultural Law Enforcement of the Department of Agriculture and Consumer Services shall have the authority to enforce traffic laws of this state ~~only as authorized by the provisions of chapter 570. However, nothing in this section shall expand the authority of the Office of Agricultural Law Enforcement at its agricultural inspection stations to issue any traffic tickets except those traffic tickets for vehicles illegally passing the inspection station.~~

f. School safety officers shall have the authority to enforce all of the traffic laws of this state when such violations occur on or about any property or facilities which are under the guidance, supervision, regulation, or control of the district school board.

2. An agency of the state as described in subparagraph 1. is prohibited from establishing a traffic citation quota. A violation of this subparagraph is not subject to the penalties provided in chapter 318.

3. Any disciplinary action taken or performance evaluation conducted by an agency of the state as described in subparagraph 1. of a law enforcement officer's traffic enforcement activity must be in accordance with written work-performance standards. Such standards must be approved by the agency and any collective bargaining unit representing such law enforcement officer. A violation of this subparagraph is not subject to the penalties provided in chapter 318.

Section 47. Section 570.073, Florida Statutes, is amended to read:

570.073 Department of Agriculture and Consumer Services, law enforcement officers.—

(1) The commissioner may create an Office of Agricultural Law Enforcement under the supervision of a senior manager exempt under s. 110.205 in the Senior Management Service. The commissioner may designate law enforcement officers, as necessary, to enforce any criminal law or conduct any criminal investigation or to enforce the provisions of any statute or any other laws of this state. Officers appointed under this section shall have the primary responsibility for enforcing laws relating to agriculture and consumer services, as outlined in this section, and have jurisdiction over violations of law which threaten the overall security and safety of this state's agriculture and consumer services. The primary responsibilities of officers appointed under this section include the enforcement of relating to any matter over which the department has jurisdiction or which occurs on prop-

erty owned, managed, or occupied by the department. Those matters include laws relating to:

(a) Domesticated animals, including livestock, poultry, aquaculture products, and other wild or domesticated animals or animal products.

(b) Farms, farm equipment, livery tack, citrus or citrus products, or horticultural products.

(c) Trespass, littering, forests, forest fires, and open burning.

(d) Damage to or theft of forest products.

(e) Enforcement of a marketing order.

(f) Protection of consumers.

(g) ~~Civil traffic offenses as provided for in state law chapters 316, 320, and 322, subject to the provisions of chapter 318, relating to any matter over which the department has jurisdiction or committed on property owned, managed, or occupied by the department.~~

(h) The use of alcohol or drugs which occurs on property owned, managed, or occupied by the department.

(i) Any emergency situation in which the life, limb, or property of any person is placed in immediate and serious danger.

(j) Any crime incidental to or related to paragraphs (a)-(i).

(k) The responsibilities of the Commissioner of Agriculture.

(2) Each law enforcement officer shall meet the qualifications of law enforcement officers under s. 943.13 and shall be certified as a law enforcement officer by the Department of Law Enforcement under the provisions of chapter 943. Upon certification, each law enforcement officer is subject to and shall have the same arrest and other authority provided for law enforcement officers generally in chapter 901 and shall have statewide jurisdiction as provided in subsection (1). Each officer shall also have arrest authority as provided for state law enforcement officers in s. 901.15 s. 901.15(11). Such officers have full law enforcement powers granted to other peace officers of this state, including the authority to make arrests, carry firearms, serve court process, and seize contraband and the proceeds of illegal activities.

(3) The commissioner may also appoint part-time, reserve, or auxiliary law enforcement officers under chapter 943.

~~(4)(3)~~ All department law enforcement officers, upon certification under s. 943.1395, shall have the same right and authority to carry arms as do the sheriffs of this state.

~~(4)(4)~~ Each law enforcement officer in the state who is certified pursuant to chapter 943 has the same authority as law enforcement officers designated in this section to enforce the laws of this state as described in subsection (1).

Section 48. Paragraph (b) of subsection (5) of section 570.71, Florida Statutes, is amended to read:

570.71 Conservation easements and agreements.—

(5) Agricultural protection agreements shall be for terms of 30 years and will provide payments to landowners having significant natural areas on their land. Public access and public recreational opportunities may be negotiated at the request of the landowner.

(b) As part of the agricultural protection agreement, the parties shall agree that the state shall have a right to buy a conservation easement or rural land protection easement at the end of the 30-year term ~~or prior to the landowner transferring or selling the property, whichever occurs later~~. If the landowner tenders the easement for the purchase and the state does not timely exercise its right to buy the easement, the landowner shall be released from the agricultural agreement. The purchase price of the easement shall be established in the agreement and shall be based on the value of the easement at the time the agreement is entered into, plus a reasonable escalator multiplied by the number of full calendar years following the date of the commencement of the agreement. The landowner may transfer or sell the property before the expiration of the 30-year term, but only if the property is sold subject to the agreement and the buyer becomes the successor in interest to the agricultural protection agreement. Upon mutual consent of the parties, a landowner may enter into a perpetual easement at any time during the term of an agricultural protection agreement.

Section 49. Subsection (3) of section 590.14, Florida Statutes, is amended to read:

590.14 Notice of violation; penalties.—

(3) The department may also impose an administrative fine, not to exceed \$1,000 per violation of any section of chapter 589 or this chapter. The fine shall be based upon the degree of damage, the and prior violation record of the person, and whether the person knowingly provided false information to obtain an authorization. The fines shall be deposited in the Incidental Trust Fund of the division.

Section 50. Section 604.40, Florida Statutes, is created to read:

604.40 Farm equipment.—Notwithstanding any other law, ordinance, rule or policy to the contrary, all power-drawn, power-driven or self-propelled equipment used on a farm may be stored, maintained, or repaired by the owner within the boundaries of the owner's farm and at least 50 feet away from any public road without limitation.

Section 51. Section 604.50, Florida Statutes, is amended 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, the term “nonresidential farm building”

means any building or support structure that is used for agricultural purposes, is located on a farm that is not used as a residential dwelling, and is located on land that is an integral part of a farm operation or is classified as agricultural land under s. 193.461. The term “farm” is as defined in s. 823.14.

Section 52. There is appropriated to the Department of Agriculture and Consumer Services from the General Inspection Trust Fund of the Division of Food Safety of the Department of Agriculture and Consumer Services, one position and \$73,671 to carry out the provisions of this act.

Section 53. Chapter 261, Florida Statutes, consisting of sections 261.01, 261.02, 261.03, 261.04, 261.05, 261.06, 261.07, 261.08, 261.09, 261.10, 261.11, and 261.12, Florida Statutes, is created to read:

261.01 Short title.—This chapter may be cited as the “T. Mark Schmidt Off-Highway Vehicle Safety and Recreation Act.”

261.02 Legislative findings and intent.—

(1) The Legislature finds that off-highway vehicles are becoming increasingly popular in this state and that the use of these vehicles should be controlled and managed to minimize negative effects on the environment, wildlife habitats, native wildlife, and native flora and fauna.

(2) The Legislature declares that effectively managed areas and adequate facilities for the use of off-highway vehicles are compatible with this state’s overall recreation plan and the underlying goal of multiple use.

(3) It is the intent of the Legislature that:

(a) Existing off-highway vehicle recreational areas, facilities, and opportunities be improved and appropriately expanded and be managed in a manner consistent with this chapter, in particular to maintain natural resources and sustained long-term use of off-highway vehicle trails and areas.

(b) New off-highway vehicle recreational areas, facilities, and opportunities be provided and managed pursuant to this chapter in a manner that will sustain both long-term use and the environment.

(4) Nothing contained within this chapter shall be construed to require the construction or maintenance of off-highway vehicle recreation areas, facilities, or trails on public lands where such construction or maintenance would be inconsistent with the property’s management objectives or land management plan.

261.03 Definitions.—As used in this chapter, the term:

(1) “Advisory committee” means the Off-Highway Vehicle Recreation Advisory Committee created by s. 261.04.

(2) “ATV” means any motorized off-highway or all-terrain vehicle 50 inches or less in width, having a dry weight of 900 pounds or less, designed to travel on three or more low-pressure tires, having a seat designed to be

straddled by the operator and handlebars for steering control, and intended for use by a single operator with no passenger.

(3) “Department” means the Department of Agriculture and Consumer Services.

(4) “Division” means the Division of Forestry of the Department of Agriculture and Consumer Services.

(5) “OHM” or “off-highway motorcycle” means any motor vehicle used off the roads or highways of this state that has a seat or saddle for the use of the rider and is designed to travel with not more than two wheels in contact with the ground, but excludes a tractor or a moped.

(6) “Off-highway vehicle” means any ATV or OHM that is used off the roads or highways of this state for recreational purposes and that is not registered and licensed for highway use under chapter 320.

(7) “Program” means the Off-Highway Vehicle Recreation Program.

(8) “Public lands” means lands within the state that are available for public use and that are owned, operated, or managed by a federal, state, county, or municipal governmental entity.

(9) “System” means the off-highway vehicle recreation areas and trails on public lands within the state.

(10) “Trust fund” means the Incidental Trust Fund of the Division of Forestry of the Department of Agriculture and Consumer Services.

261.04 Off-Highway Vehicle Recreation Advisory Committee; members; appointment.—

(1) Effective July 1, 2003, the Off-Highway Vehicle Recreation Advisory Committee is created within the Division of Forestry and consists of nine members, all of whom are appointed by the Commissioner of Agriculture. The appointees shall include one representative of the Department of Agriculture and Consumer Services, one representative of the Department of Highway Safety and Motor Vehicles, one representative of the Department of Environmental Protection’s Office of Greenways and Trails, one representative of the Fish and Wildlife Conservation Commission, one citizen with scientific expertise in disciplines relating to ecology, wildlife biology, or other environmental sciences, one representative of a licensed off-highway vehicle dealer, and three representatives of off-highway vehicle recreation groups. In making these appointments, the commissioner shall consider the places of residence of the members to ensure statewide representation.

(2) The term of office of each member of the advisory committee is 2 years. The members first appointed shall classify themselves by lot so that the terms of four members expire June 30, 2005, and the terms of five members expire June 30, 2006.

(3) In case of a vacancy on the advisory committee, the commissioner shall appoint a successor member for the unexpired portion of the term.

(4) The members shall elect a chair among themselves who shall serve for 1 year or until a successor is elected.

(5) The members of the advisory committee shall serve without compensation, but shall be reimbursed for travel and per diem expenses as provided in s. 112.061, while in the performance of their official duties.

261.05 Duties and responsibilities of the Off-Highway Vehicle Recreation Advisory Committee.—

(1) The advisory committee shall establish policies to guide the department regarding the Off-Highway Vehicle Recreation Program and the system of off-highway vehicle recreation areas and trails.

(2) The advisory committee shall make recommendations to the department regarding off-highway vehicle safety and training and education programs in the operation of such vehicles.

(3) The advisory committee must be informed regarding all governmental activities affecting the program.

(4) The advisory committee must be informed regarding off-highway vehicle impacts and effects on the environment, wildlife habitats, and native flora and fauna and shall make recommendations to avoid or minimize adverse environmental impacts and promote sustained long-term use.

(5) The advisory committee must be fully informed regarding the inventory of off-highway vehicle access and opportunities.

(6) The advisory committee shall meet at various times and locations throughout the state to receive public comments on the implementation of the program and shall take these public comments into consideration when making its recommendations.

(7) The advisory committee shall review and make recommendations annually regarding the department's proposed budget of expenditures from the designated off-highway vehicle funds in the trust fund, which may include providing funds to match grant funds available from other sources.

(8) The advisory committee shall make recommendations regarding all capital outlay expenditures from the trust fund proposed for inclusion in the budget and shall identify additional funding sources for management, enforcement, education, rehabilitation, and other duties of the land management agencies related to the system.

(9) The advisory committee shall review grant applications submitted by any governmental agency or entity or nongovernmental entity requesting moneys from the trust fund to create, operate, manage, or improve off-highway vehicle recreation areas or trails within the state, protect and restore affected natural areas in the system, or provide off-highway vehicle driver education. The advisory committee shall recommend to the department approval or denial of such grant applications based upon criteria established by the advisory committee.

261.06 Functions, duties, and responsibilities of the department.—The following are functions, duties, and responsibilities of the department through the division:

(1) Coordination of the planning, development, conservation, and rehabilitation of state lands in and for the system.

(2) Coordination of the management, maintenance, administration, and operation of state lands in the system and the provision of law enforcement and appropriate public safety activities.

(3) Management of the trust fund and approval of the advisory committee's budget recommendations.

(4) Implementation of the program, including the ultimate approval of grant applications submitted by governmental agencies or entities or non-governmental entities.

(5) Coordination to help ensure compliance with environmental laws and regulations of the program and lands in the system.

(6) Implementation of the policies established by the advisory committee.

(7) Provision of staff assistance to the advisory committee.

(8) Preparation of plans for lands in, or proposed to be included in, the system.

(9) Conducting surveys and the preparation of studies as are necessary or desirable for implementing the program.

(10) Recruitment and utilization of volunteers to further the program.

(11) Rulemaking authority to implement the provisions of ss. 261.01-261.10.

(12) In consultation with the Department of Environmental Protection, the Fish and Wildlife Conservation Commission, the environmental community, and the off-highway vehicle industry and user groups, review of the inventory of public lands to determine the feasibility of providing public access for off-highway vehicle recreation and trails. The department shall provide a report to the Governor and the presiding officers of the Legislature by January 1, 2003. The report must include at least two appropriate locations for public access for off-highway vehicle recreational use and the applicable cost of providing each facility. The cost section of the report shall fully explain the fiscal approach of renovating, maintaining, and operating each site and include a recommended fee structure to support the ongoing maintenance and operation of the program. The report shall also include the benefits and risks of offering each site for off-highway vehicle recreational use. The recommendations contained within the report shall be implemented to the extent enacted or appropriated by the Legislature. This subsection shall expire July 1, 2003.

261.07 Publication and distribution of guidebook; contents.—In consultation with the advisory committee, the department shall publish a guidebook that includes the text of this chapter, other laws and regulations relating to the program, and maps of areas and trails of the system. The guidebook may include other public areas, trails, and facilities for the use of off-highway vehicles. The guidebook must include information regarding the responsibilities of users of the system and must set forth pertinent laws, rules, and regulations including particular provisions and other information intended to prevent trespass and damage to public or private property. The guidebook must be prepared at minimal cost to facilitate the broadest possible distribution and must be available for distribution no later than October 1, 2003.

261.08 Repair, maintenance, and rehabilitation of areas, trails, and lands.—

(1) The protection of public safety, the appropriate use of lands in the system, and the conservation of the environment, wildlife habitats, native wildlife, and native flora and fauna in the system are of the highest priority in the management of the system. Accordingly, the public land managing agency shall avoid or minimize adverse impacts to the environment, promptly repair and continuously maintain areas and trails, anticipate and prevent accelerated erosion, and rehabilitate lands to the extent damaged by off-highway vehicle use in accordance with the management plans of the public land managing agency.

(2) The public land managing agency shall monitor the condition of soils and wildlife habitat in each area of the system to determine whether there is compliance with applicable environmental laws and regulations and shall take appropriate action as necessary.

(3) The public land managing agency may regulate or prohibit, when necessary, the use of off-highway vehicles on the public lands of the state in order to prevent damage or destruction to said lands.

261.09 Contracts and agreements.—The public land managing agency may contract with private persons or entities and enter into cooperative agreements with other public agencies for the care and maintenance of lands in the system, including contracts for law enforcement services with public agencies having law enforcement powers.

261.10 Criteria for recreation areas and trails.—Publicly owned or operated off-highway vehicle recreation areas and trails shall be designated and maintained for recreational travel by off-highway vehicles. These areas and trails need not be generally suitable or maintained for normal travel by conventional two-wheel-drive vehicles and should not be designated as recreational footpaths. State off-highway vehicle recreation areas and trails must be selected and managed in accordance with this chapter.

261.11 Penalties.—No off-highway vehicle may be operated upon the public roads, streets, or highways of this state, except as otherwise permitted by the managing local, state, or federal agency. A violation of this section is a noncriminal traffic infraction, punishable as provided in chapter 318.

261.12 Designated off-highway vehicle funds within the Incidental Trust Fund of the Division of Forestry of the Department of Agriculture and Consumer Services.—

(1) The designated off-highway vehicle funds of the trust fund shall consist of deposits from the following sources:

(a) Fees paid to the Department of Highway Safety and Motor Vehicles for the titling of off-highway vehicles.

(b) Revenues and income from any other sources required by law or as appropriated by the Legislature to be deposited into the trust fund as designated off-highway vehicle funds.

(c) Donations from private sources that are designated as off-highway vehicle funds.

(d) Interest earned on designated off-highway vehicle funds on deposit in the trust fund.

(2) Designated off-highway vehicle funds in the trust fund shall be available for recommended allocation by the Off-Highway Vehicle Recreation Advisory Committee and the Department of Agriculture and Consumer Services and upon annual appropriation by the Legislature, exclusively for the following:

(a) Implementation of the Off-Highway Vehicle Recreation Program by the Department of Agriculture and Consumer Services, which includes personnel and other related expenses; administrative and operating expenses; expenses related to safety, training, rider education programs, management, maintenance, and rehabilitation of lands in the Off-Highway Vehicle Recreation Program's system of lands and trails; and, if funds are available, acquisition of lands to be included in the system and the management, maintenance, and rehabilitation of such lands.

(b) Approved grants to governmental agencies or entities or nongovernmental entities that wish to provide or improve off-highway vehicle recreation areas or trails for public use on public lands, provide environmental protection and restoration to affected natural areas in the system, provide enforcement of applicable regulations related to the system and off-highway vehicle activities, or provide education in the operation of off-highway vehicles.

(c) Matching funds to be used to match grant funds available from other sources.

(3) Notwithstanding s. 216.301 and pursuant to s. 216.351, any balance of designated off-highway vehicle funds in the trust fund at the end of any fiscal year shall remain therein and shall be available for the purposes set out in this section and as otherwise provided by law.

Section 54. Section 316.2074, Florida Statutes, is amended to read:

316.2074 All-terrain vehicles.—

(1) It is the intent of the Legislature, through the adoption of this section to provide safety protection for minors while operating an all-terrain vehicle in this state.

(2) As used in this section, the term “all-terrain vehicle” means any motorized off-highway vehicle 50 inches (1270 mm) or less in width, having a dry weight of 900 600 pounds (273 kg) or less, designed to travel traveling on three or more low-pressure tires, designed for operator use only with no passengers, having a seat or saddle designed to be straddled by the operator, and having handlebars for steering control, and intended for use by a single operator with no passenger.

(3) No person under 16 years of age shall operate, ride, or be otherwise propelled on an all-terrain vehicle unless the person wears a safety helmet meeting United States Department of Transportation standards and eye protection.

(4) If a crash results in the death of any person or in the injury of any person which results in treatment of the person by a physician, the operator of each all-terrain vehicle involved in the crash shall give notice of the crash pursuant to s. 316.066.

(5) Except as provided in this section, an all-terrain vehicle may not be operated upon the public roads, streets, or highways of this state, except as otherwise permitted by the managing state or federal agency.

~~(6)~~(5) An all-terrain vehicle having four wheels may be used by police officers on public beaches designated as public roadways for the purpose of enforcing the traffic laws of the state. All-terrain vehicles may also be used by the police to travel on public roadways within 5 miles of beach access only when getting to and from the beach.

(7) An all-terrain vehicle having four wheels may be used by law enforcement officers on public roads within public lands while in the course and scope of their duties.

~~(8)~~(6) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 55. Short title.—Sections 55 through 67 of this act may be cited as the “Florida Off-Highway Vehicle Titling Act.”

Section 56. Legislative intent.—It is the intent of the Legislature that all off-highway vehicles purchased after the effective date of this act and all off-highway vehicles operated on public lands be titled and issued a certificate of title to allow for easy determination of ownership.

Section 57. Definitions.—As used in sections 55 through 67, the term:

(1) “ATV” means any motorized off-highway or all-terrain vehicle 50 inches or less in width, having a dry weight of 900 pounds or less, designed to travel on three or more low-pressure tires, having a seat designed to be

straddled by the operator and handlebars for steering control, and intended for use by a single operator and with no passenger.

(2) “Dealer” means any person authorized by the Department of Revenue to buy, sell, resell, or otherwise distribute off-highway vehicles. Such person must have a valid sales tax certificate of registration issued by the Department of Revenue and a valid commercial or occupational license required by any county, municipality, or political subdivision of the state in which the person operates.

(3) “Department” means the Department of Highway Safety and Motor Vehicles.

(4) “Florida resident” means a person who has had a principal place of domicile in this state for a period of more than 6 consecutive months, who has registered to vote in this state, who has made a statement of domicile pursuant to section 222.17, Florida Statutes, or who has filed for homestead tax exemption on property in this state.

(5) “OHM” or “off-highway motorcycle” means any motor vehicle used off the roads or highways of this state that has a seat or saddle for the use of the rider and is designed to travel with not more than two wheels in contact with the ground, but excludes a tractor or a moped.

(6) “Off-highway vehicle” means any ATV or OHM that is used off the roads or highways of this state for recreational purposes and that is not registered and licensed for highway use pursuant to chapter 320, Florida Statutes.

(7) “Owner” means a person, other than a lienholder, having the property in or title to an off-highway vehicle, including a person entitled to the use or possession of an off-highway vehicle subject to an interest held by another person, reserved or created by agreement and securing payment of performance of an obligation, but the term excludes a lessee under a lease not intended as security.

(8) “Public lands” means lands within the state that are available for public use and that are owned, operated, or managed by a federal, state, county, or municipal governmental entity.

Section 58. Administration of off-highway vehicle titling laws; records.—

(1) The administration of off-highway vehicle titling laws in sections 55 through 67 is under the Department of Highway Safety and Motor Vehicles, which shall provide for the issuing, handling, and recording of all off-highway vehicle titling applications and certificates, including the receipt and accounting of off-highway vehicle titling fees.

(2) The department shall keep records and perform other clerical duties pertaining to off-highway vehicle titling as required.

Section 59. Rules, forms, and notices.—

(1) The department may adopt rules pursuant to sections 120.536(1) and 120.54, Florida Statutes, which pertain to off-highway vehicle titling, in order to implement the provisions of sections 55 through 67 conferring duties upon it.

(2) The department shall prescribe and provide suitable forms for applications and other notices and forms necessary to administer the provisions of sections 55 through 67.

Section 60. Certificate of title required.—

(1) Any off-highway vehicle that is purchased by a resident of this state after the effective date of this act or that is owned by a resident and is operated on the public lands of this state must be titled pursuant to sections 55 through 67.

(2) A person may not sell, assign, or transfer an off-highway vehicle titled by the state without delivering to the purchaser or transferee a valid certificate of title with an assignment on it showing the transfer of title to the purchaser or transferee. A person may not purchase or otherwise acquire an off-highway vehicle required to be titled without obtaining a certificate of title for the vehicle in his or her name. The purchaser or transferee shall, within 30 days after a change in off-highway vehicle ownership, file an application for a title transfer with the county tax collector. An additional \$10 fee shall be charged against a purchaser or transferee who files a title transfer application after the 30-day period. The county tax collector may retain \$5 of the additional amount.

(3) A certificate of title is prima facie evidence of the ownership of the off-highway vehicle and is good for the life of the off-highway vehicle so long as the certificate is owned or held by the legal holder. If a titled off-highway vehicle is destroyed or abandoned, the owner, with the consent of any recorded lienholders, shall, within 30 days after the destruction or abandonment, surrender to the department all title documents for cancellation.

(4) The department shall provide labeled places on the title where the seller's price shall be indicated when an off-highway vehicle is sold and where a selling dealer shall record his or her valid sales tax certificate of registration number.

(5)(a) There shall be a service charge of \$4.25 for each application that is handled in connection with the issuance, duplication, or transfer of any certificate of title. There shall be a service charge of \$1.25 for each application that is handled in connection with the recording or notation of a lien on an off-highway vehicle that is not in connection with the purchase of such vehicle.

(b) The service charges specified in paragraph (a) shall be collected by the department on any application handled directly from its office. Otherwise, these service charges shall be collected and retained by the tax collector who handles the application.

(c) In addition to the fees provided in paragraph (a), any tax collector may impose an additional service charge of not more than 50 cents on any trans-

action specified in paragraph (a) when such transaction occurs at any tax collector's branch office.

Section 61. Application for and issuance of certificate of title.—

(1) The owner of an off-highway vehicle that is required to be titled must apply to the county tax collector for a certificate of title. The application must include the true name of the owner, the residence or business address of the owner, and a complete description of the off-highway vehicle. The application must be signed by the owner and must be accompanied by a fee of \$29.

(2) The owner must establish proof of ownership by submitting with the application an executed bill of sale, a manufacturer's statement of origin, an affidavit of ownership for off-highway vehicles purchased before the effective date of this act, or any other document acceptable to the department.

(3) To apply for a certificate of title upon transfer of ownership of an off-highway vehicle, the new owner must surrender to the department the last title document issued for that vehicle. The document must be properly executed. Proper execution includes the previous owner's signature and certification that the off-highway vehicle to be transferred is debt-free or is subject to a lien. If a lien exists, the previous owner must furnish the new owner, on forms supplied by the department, the names and addresses of all lienholders and the dates of all liens, with a statement from each lienholder that the lienholder has knowledge of and consents to the transfer of title to the new owner.

(4) An application for an initial certificate of title or a title transfer must include payment of the applicable state sales tax or proof of payment of such tax, except for off-highway vehicles purchased or transferred before the effective date of this act.

(5) If the owner submits a complete application and complies with all other requirements of this section, the department shall issue a certificate of title that states that the title is for an off-highway vehicle that is not suitable for highway use. After October 1, 2003, the department shall also issue a copy of the guidebook prepared by the Department of Agriculture and Consumer Services pursuant to section 261.07, Florida Statutes.

Section 62. Duplicate certificate of title.—

(1) The department may issue a duplicate certificate of title upon application by the person entitled to hold such a certificate if the department is satisfied that the original certificate has been lost, destroyed, or mutilated. A fee of \$15 shall be charged for issuing a duplicate certificate.

(2) In addition to the fee imposed by subsection (1), a fee of \$7 shall be charged for expedited service in issuing a duplicate certificate of title. Application for such expedited service may be made by mail or in person. The department shall issue each certificate of title applied for under this subsection within 5 working days after receipt of a proper application or shall refund the additional \$7 fee upon written request by the applicant.

(3) If, following the issuance of an original, duplicate, or corrected certificate of title by the department, the certificate is lost in transit and is not delivered to the addressee, the owner of the off-highway vehicle or the holder of a lien thereon may, within 180 days after the date of issuance of the certificate, apply to the department for reissuance of the certificate. An additional fee may not be charged for reissuance under this subsection.

(4) The department shall implement a system to verify that the application is signed by a person authorized to receive a duplicate certificate of title under this section if the address shown on the application is different from the address shown for the applicant on the records of the department.

Section 63. Manufacturer's statement of origin to be furnished.—

(1) Any person selling a new off-highway vehicle in this state must furnish a manufacturer's statement of origin to the purchaser. The statement, which must be in English or accompanied by an English translation if the vehicle was purchased outside the United States, must be signed and dated by an authorized representative of the manufacturer, indicate the complete name and address of the purchaser, include a complete description of the vehicle, and contain as many assignments as necessary to show title in the name of the purchaser.

(2) It is unlawful for an off-highway vehicle manufacturer, manufacturer's representative, or dealer to issue a manufacturer's certificate of origin describing an off-highway vehicle with the knowledge that the description is false or that the off-highway vehicle described does not exist. It is unlawful for any person to obtain or attempt to obtain a certificate of origin with the knowledge that the description is false or that the off-highway vehicle does not exist. Any person who violates this subsection commits a felony of the third degree, punishable as provided in section 775.082, section 775.083, or section 775.084, Florida Statutes.

Section 64. Disposition of fees.—The department shall deposit all funds received under sections 55 through 67, less administrative costs of \$2 per title transaction, into the Incidental Trust Fund of the Division of Forestry of the Department of Agriculture and Consumer Services.

Section 65. Refusal to issue and authority to cancel a certificate of title.—

(1) If the department finds that an applicant for an off-highway vehicle certificate of title has given a false statement or false or incomplete information in applying for the certificate or has otherwise failed to comply with the applicable provisions pertaining to the application for a certificate, it may refuse to issue the certificate.

(2) If the department finds that an owner or dealer named in an off-highway vehicle certificate of title has given a false statement or false or incomplete information in applying for the certificate or has otherwise failed to comply with the applicable provisions pertaining to the application for a certificate, it may cancel the certificate.

(3) The department may cancel any pending application or any certificate if it finds that any title fee or sales tax pertaining to such application

or certificate has not been paid, unless the fee or tax is paid within a reasonable time after the department has given notice.

Section 66. Crimes relating to certificates of title; penalties.—

(1) It is unlawful for any person to procure or attempt to procure a certificate of title or duplicate certificate of title to an off-highway vehicle, or to pass or attempt to pass a certificate of title or duplicate certificate of title to an off-highway vehicle or any assignment thereof, if such person knows or has reason to believe that the vehicle has been stolen. Any person who violates this subsection commits a felony of the third degree, punishable as provided in section 775.082, section 775.083, or section 775.084, Florida Statutes.

(2) It is unlawful for any person, knowingly and with intent to defraud, to have in his or her possession, sell, offer to sell, counterfeit, or supply a blank, forged, fictitious, counterfeit, stolen, or fraudulently or unlawfully obtained certificate of title, duplicate certificate of title, bill of sale, or other indicia of ownership of an off-highway vehicle or to conspire to do any of the foregoing. Any person who violates this subsection commits a felony of the third degree, punishable as provided in section 775.082, section 775.083, or section 775.084, Florida Statutes.

(3) It is unlawful to:

(a) Alter or forge any certificate of title to an off-highway vehicle or any assignment thereof or any cancellation of any lien on an off-highway vehicle.

(b) Retain or use such certificate, assignment, or cancellation knowing that it has been altered or forged.

(c) Use a false or fictitious name, give a false or fictitious address, or make any false statement in any application or affidavit required by sections 55 through 67 or in a bill of sale or sworn statement of ownership or otherwise commit a fraud in any application.

(d) Knowingly obtain goods, services, credit, or money by means of an invalid, duplicate, fictitious, forged, counterfeit, stolen, or unlawfully obtained certificate of title, bill of sale, or other indicia of ownership of an off-highway vehicle.

(e) Knowingly obtain goods, services, credit, or money by means of a certificate of title to an off-highway vehicle which certificate is required by law to be surrendered to the department.

Any person who violates this subsection commits a felony of the third degree, punishable as provided in section 775.082, section 775.083, or section 775.084, Florida Statutes. A violation of this subsection with respect to any off-highway vehicle makes such off-highway vehicle contraband which may be seized by a law enforcement agency and forfeited under sections 932.701-932.704, Florida Statutes.

Section 67. Nonmoving traffic violations.—Any person who fails to comply with any provision of sections 55 through 66 for which a penalty is not

otherwise provided commits a nonmoving traffic violation, punishable as provided in section 318.18, Florida Statutes.

Section 68. Section 375.313, Florida Statutes, is amended to read:

375.313 Commission powers and duties.—The commission shall:

(1) Regulate or prohibit, when necessary, the use of motor vehicles on the public lands of the state in order to prevent damage or destruction to said lands.

~~(2) Collect any registration fees imposed by s. 375.315 and deposit said fees in the State Game Trust Fund. The revenue resulting from said registration shall be expended for the funding and administration of ss. 375.311-375.315.~~

~~(2)(3)~~ Adopt and promulgate such reasonable rules as deemed necessary to administer the provisions of ss. 375.311-375.315, except that, before any such rules are adopted, the commission shall obtain the consent and agreement, in writing, of the owner, in the case of privately owned lands, or the owner or primary custodian, in the case of publicly owned lands.

Section 69. Section 375.315, Florida Statutes, is repealed.

Section 70. Paragraph (a) of subsection (6) of section 163.3177, Florida Statutes, is amended to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(6) In addition to the requirements of subsections (1)-(5), the comprehensive plan shall include the following elements:

(a) A future land use plan element designating proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities, and other categories of the public and private uses of land. ~~Each~~ The future land use category plan shall be defined in terms of uses included, and shall include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies, and measurable objectives. ~~Each land use category shall be defined in terms of the types of uses included and specific standards for the density or intensity of use.~~ The future land use plan shall be based upon surveys, studies, and data regarding the area, including the amount of land required to accommodate anticipated growth; the projected population of the area; the character of undeveloped land; the availability of public services; the need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community; and, in rural communities, the need for job creation, capital investment, and economic development that will strengthen and diversify the community's economy.

The future land use plan may designate areas for future planned development use involving combinations of types of uses for which special regulations may be necessary to ensure development in accord with the principles and standards of the comprehensive plan and this act. In addition, for rural communities, the amount of land designated for future planned industrial use shall be based upon surveys and studies that reflect the need for job creation, capital investment, and the necessity to strengthen and diversify the local economies, and shall not be limited solely by the projected population of the rural community. The future land use plan of a county may also designate areas for possible future municipal incorporation. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection. The future land use element must clearly identify the land use categories in which public schools are an allowable use. When delineating the land use categories in which public schools are an allowable use, a local government shall include in the categories sufficient land proximate to residential development to meet the projected needs for schools in coordination with public school boards and may establish differing criteria for schools of different type or size. Each local government shall include lands contiguous to existing school sites, to the maximum extent possible, within the land use categories in which public schools are an allowable use. All comprehensive plans must comply with the school siting requirements of this paragraph no later than October 1, 1999. The failure by a local government to comply with these school siting requirements by October 1, 1999, will result in the prohibition of the local government's ability to amend the local comprehensive plan, except for plan amendments described in s. 163.3187(1)(b), until the school siting requirements are met. An amendment proposed by a local government for purposes of identifying the land use categories in which public schools are an allowable use is exempt from the limitation on the frequency of plan amendments contained in s. 163.3187. The future land use element shall include criteria which encourage the location of schools proximate to urban residential areas to the extent possible and shall require that the local government seek to collocate public facilities, such as parks, libraries, and community centers, with schools to the extent possible. For schools serving predominantly rural counties, defined as a county with a population of 100,000 or fewer, an agricultural land use category shall be eligible for the location of public school facilities if the local comprehensive plan contains school siting criteria and the location is consistent with such criteria.

Section 71. There is appropriated to the Department of Agriculture and Consumer Services from the General Inspection Trust Fund of the Division of Agricultural Environmental Services of the Department of Agriculture and Consumer Services, \$10,000 to carry out the provisions of this act relating to the Pest Control Enforcement Advisory Council.

Section 72. Paragraph (g) of subsection (7) of section 163.01, Florida Statutes, is amended to read:

163.01 Florida Interlocal Cooperation Act of 1969.—

(7)

(g)1. Notwithstanding any other provisions of this section, any separate legal entity created under this section, the membership of which is limited to municipalities and counties of the state, may acquire, own, construct, improve, operate, and manage public facilities, or finance facilities on behalf of any person, relating to a governmental function or purpose, including, but not limited to, wastewater facilities, water or alternative water supply facilities, and water reuse facilities, which may serve populations within or outside of the members of the entity. Notwithstanding s. 367.171(7), any separate legal entity created under this paragraph is not subject to commission jurisdiction and may not provide utility services within the service area of an existing utility system unless it has received the consent of the utility. The entity may finance or refinance the acquisition, construction, expansion, and improvement of such facilities relating to a governmental function or purpose ~~the public facility~~ through the issuance of its bonds, notes, or other obligations under this section or as otherwise authorized by law. The entity has all the powers provided by the interlocal agreement under which it is created or which are necessary to finance, own, operate, or manage the public facility, including, without limitation, the power to establish rates, charges, and fees for products or services provided by it, the power to levy special assessments, the power to sell or finance all or a portion of such its facility, and the power to contract with a public or private entity to manage and operate such its facilities or to provide or receive facilities, services, or products. Except as may be limited by the interlocal agreement under which the entity is created, all of the privileges, benefits, powers, and terms of s. 125.01, relating to counties, and s. 166.021, relating to municipalities, are fully applicable to the entity. However, neither the entity nor any of its members on behalf of the entity may exercise the power of eminent domain over the facilities or property of any existing water or wastewater plant utility system, nor may the entity acquire title to any water or wastewater plant utility facilities, other facilities, or property which was acquired by the use of eminent domain after the effective date of this act. Bonds, notes, and other obligations issued by the entity are issued on behalf of the public agencies that are members of the entity.

2. Any entity created under this section may also issue bond anticipation notes in connection with the authorization, issuance, and sale of bonds. The bonds may be issued as serial bonds or as term bonds or both. Any entity may issue capital appreciation bonds or variable rate bonds. Any bonds, notes, or other obligations must be authorized by resolution of the governing body of the entity and bear the date or dates; mature at the time or times, not exceeding 40 years from their respective dates; bear interest at the rate or rates; be payable at the time or times; be in the denomination; be in the form; carry the registration privileges; be executed in the manner; be payable from the sources and in the medium or payment and at the place; and be subject to the terms of redemption, including redemption prior to maturity, as the resolution may provide. If any officer whose signature, or a facsimile of whose signature, appears on any bonds, notes, or other obligations ceases to be an officer before the delivery of the bonds, notes, or other obligations, the signature or facsimile is valid and sufficient for all purposes as if he or she had remained in office until the delivery. The bonds, notes, or other obligations may be sold at public or private sale for such price as the governing body of the entity shall determine. Pending preparation of the

definitive bonds, the entity may issue interim certificates, which shall be exchanged for the definitive bonds. The bonds may be secured by a form of credit enhancement, if any, as the entity deems appropriate. The bonds may be secured by an indenture of trust or trust agreement. In addition, the governing body of the legal entity may delegate, to an officer, official, or agent of the legal entity as the governing body of the legal entity may select, the power to determine the time; manner of sale, public or private; maturities; rate of interest, which may be fixed or may vary at the time and in accordance with a specified formula or method of determination; and other terms and conditions as may be deemed appropriate by the officer, official, or agent so designated by the governing body of the legal entity. However, the amount and maturity of the bonds, notes, or other obligations and the interest rate of the bonds, notes, or other obligations must be within the limits prescribed by the governing body of the legal entity and its resolution delegating to an officer, official, or agent the power to authorize the issuance and sale of the bonds, notes, or other obligations.

3. Bonds, notes, or other obligations issued under subparagraph 1. may be validated as provided in chapter 75. The complaint in any action to validate the bonds, notes, or other obligations must be filed only in the Circuit Court for Leon County. The notice required to be published by s. 75.06 must be published in Leon County and in each county that is a member of the entity issuing the bonds, notes, or other obligations, or in which a member of the entity is located, and the complaint and order of the circuit court must be served only on the State Attorney of the Second Judicial Circuit and on the state attorney of each circuit in each county that is a member of the entity issuing the bonds, notes, or other obligations or in which a member of the entity is located. Section 75.04(2) does not apply to a complaint for validation brought by the legal entity.

4. The accomplishment of the authorized purposes of a legal entity created under this paragraph is in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions. Since the legal entity will perform essential governmental functions in accomplishing its purposes, the legal entity is not required to pay any taxes or assessments of any kind whatsoever upon any property acquired or used by it for such purposes or upon any revenues at any time received by it. The bonds, notes, and other obligations of an entity, their transfer and the income therefrom, including any profits made on the sale thereof, are at all times free from taxation of any kind by the state or by any political subdivision or other agency or instrumentality thereof. The exemption granted in this subparagraph is not applicable to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

Section 73. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2002.

Approved by the Governor May 30, 2002.

Filed in Office Secretary of State May 30, 2002.