

## House Bill No. 1717

An act relating to agriculture; amending s. 193.451, F.S.; clarifying the value for purpose of assessment for ad valorem taxes of certain property leased by the Department of Agriculture and Consumer Services; providing intent for retroactive application; amending ss. 372.921 and 372.922, F.S.; conforming provisions relating to regulatory authority over the possession, control, care, and maintenance of bison; creating s. 450.175, F.S.; providing a part title; repealing s. 450.211, F.S., relating to the advisory committee for the Legislative Commission on Migrant Labor; amending s. 487.2031, F.S.; revising definition of the term “material safety data sheet” for purposes of the Florida Agricultural Worker Safety Act; creating s. 487.2042, F.S.; providing for investigation of complaints; providing criteria for the commencement of an investigation; providing for exemption from civil liability under certain circumstances; providing penalties for making a false complaint; amending s. 502.014, F.S.; deleting a duty of the department relating to issuance of a temporary marketing permit for milk and milk products and a fee therefor; amending s. 502.091, F.S.; deleting reference to a milk type no longer produced; amending s. 503.011, F.S.; updating a reference in the definition of “frozen desserts”; amending s. 531.39, F.S.; deleting an outdated reference relating to state standards for weights and measures; amending s. 531.47, F.S.; revising provisions relating to packages on which information is required; amending s. 531.49, F.S.; revising provisions relating to advertising packaged commodities; amending s. 570.07, F.S.; clarifying the power of the department relating to standards and fines; providing an additional power of the department; creating s. 570.076, F.S.; authorizing the department to adopt rules establishing the Environmental Stewardship Certification Program; providing program standards; providing requirements for receipt of an agricultural certification; authorizing the Soil and Water Conservation Council to develop and recommend additional criteria; authorizing the department and the Institute of Food and Agricultural Sciences at the University of Florida to develop, deliver, and certify completion of a curriculum; authorizing agreements with third-party providers to administer or implement the program; amending s. 570.9135, F.S.; correcting a reference; amending s. 570.952, F.S.; revising the membership of the Florida Agriculture Center and Horse Park Authority; providing criteria for expiration of terms; deleting requirement of submission of information to the Legislature; amending s. 581.011, F.S.; defining the term “invasive plant”; amending s. 581.083, F.S.; prohibiting the cultivation of nonnative plants for purposes of fuel production or purposes other than agriculture in plantings greater than a specified size, except under a special permit issued by the department; providing an exemption; requiring application for a special permit and a fee therefor; requiring an applicant to show proof of security through a bond or certificate of deposit; defining the term “certificate of deposit”; requiring removal and destruction of plants under certain cir-

cumstances; specifying circumstances under which the department may issue a final order for plant removal and destruction; requiring reimbursement of costs and expenses for plant removal and destruction by the department; providing requirements for maintenance of a bond or certificate of deposit by a permitholder; providing requirements relating to assignment and cancellation of a bond or certificate of deposit; authorizing requirement for an annual bond or certificate of deposit and an increase or decrease in the amount of security required; authorizing the department to verify statements and accounts with respect to cultivated acreage; providing for suspension or revocation of a special permit under certain circumstances; amending s. 585.002, F.S.; providing for department regulatory authority over the possession, control, care, and maintenance of bison; providing an exception; amending s. 590.125, F.S.; clarifying liability with respect to prescribed burning; providing severability; providing an effective date.

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

Section 1. Subsection (3) is added to section 193.451, Florida Statutes, to read:

193.451 Annual growing of agricultural crops, nonbearing fruit trees, nursery stock; taxability.—

(3) Personal property leased or subleased by the Department of Agriculture and Consumer Services and utilized in the inspection, grading, or classification of citrus fruit shall be deemed to have value for purposes of assessment for ad valorem property taxes no greater than its market value as salvage. It is the expressed intent of the Legislature that this subsection shall have retroactive application to December 31, 2003.

Section 2. Subsection (8) of section 372.921, Florida Statutes, is amended to read:

372.921 Exhibition or sale of wildlife.—

(8) This section shall not apply to the possession, control, care, and maintenance of ostriches, emus, ~~and~~ rheas, ~~and bison domesticated and confined for commercial farming purposes~~, except those kept and maintained on hunting preserves or game farms or primarily for exhibition purposes in zoos, carnivals, circuses, and other such establishments where such species are kept primarily for display to the public.

Section 3. Subsection (6) of section 372.922, Florida Statutes, is amended to read:

372.922 Personal possession of wildlife.—

(6) This section shall not apply to the possession, control, care, and maintenance of ostriches, emus, ~~and~~ rheas, ~~and bison domesticated and confined for commercial farming purposes~~, except those kept and maintained on hunting preserves or game farms or primarily for exhibition purposes in

zoos, carnivals, circuses, and other such establishments where such species are kept primarily for display to the public.

Section 4. Section 450.175, Florida Statutes, is created to read:

450.175 Part title.—Part II of this chapter may be cited as the “Alfredo Bahena Act.”

Section 5. Section 450.211, Florida Statutes, is repealed.

Section 6. Subsection (7) of section 487.2031, Florida Statutes, is amended to read:

487.2031 Definitions.—For the purposes of this part, the term:

(7) “Material safety data sheet” means written, electronic, or printed material concerning an agricultural pesticide that sets forth the following information:

(a) The chemical name and the common name of the agricultural pesticide.

(b) The hazards or other risks in the use of the agricultural pesticide, including:

1. The potential for fire, explosions, corrosivity, and reactivity.

2. The known acute health effects and chronic health effects of exposure to the agricultural pesticide, including those medical conditions that are generally recognized as being aggravated by exposure to the agricultural pesticide.

3. The primary routes of entry and symptoms of overexposure.

(c) The proper handling practices, necessary personal protective equipment, and other proper or necessary safety precautions in circumstances that involve the use of or exposure to the agricultural pesticide, including appropriate emergency treatment in case of overexposure.

(d) The emergency procedures for spills, fire, disposal, and first aid.

(e) A description of the known specific potential health risks posed by the agricultural pesticide, which is written in lay terms and is intended to alert any person who reads the information.

(f) The year and month, if available, that the information was compiled and the name, address, and emergency telephone number of the manufacturer responsible for preparing the information.

Section 7. Section 487.2042, Florida Statutes, is created to read:

487.2042 Submission and investigation of complaints.—

(1) The department shall cause to be investigated any complaint which is filed under this part if the complaint is in writing, signed by the complain-

ant, and is legally sufficient. A complaint is legally sufficient if it contains ultimate facts which show that a violation of this part, or the rules adopted under this part, may have occurred. In order to determine legal sufficiency, the department may require supporting information or documentation. The department may investigate an anonymous complaint or a complaint made by a confidential informant if the complaint is in writing and is legally sufficient, if the alleged violation of law or rules is substantial, and if the department has reason to believe, after preliminary inquiry, that the alleged violations in the complaint are true. The department may initiate an investigation if it has reasonable cause to believe that a person has violated this part or the rules adopted under this part.

(2) A privilege against civil liability is hereby granted to any complainant or any witness with regard to information furnished with respect to any investigation or proceeding pursuant to this part, unless the complainant or witness acted in bad faith or with malice in providing such information.

(3) Whoever knowingly makes a false complaint in writing under this part commits a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 837.06.

Section 8. Section 502.014, Florida Statutes, is amended to read:

502.014 Powers and duties.—

(1) The department shall administer and enforce all regulatory laws currently in effect governing:

(a) The production, processing, and distribution of milk and milk products.

(b) The sanitation and sanitary practices of establishments where food and drink, including milk and milk products, are sold for consumption on the premises, except food service establishments regulated under chapters 381 and 509.

(c) The sanitary and healthful condition of the food and drink sold or offered for sale by establishments under the department's jurisdiction pursuant to paragraph (b).

(d) The laboratory work of testing and analyzing milk and milk products.

(2)(a) The department shall conduct onsite inspections of dairy farms and milk plants, and collect test samples of milk and milk products, as required by this chapter.

(b) The department shall designate employees who shall be certified by the United States Food and Drug Administration as state milk sanitation rating officers, sampling surveillance officers, and laboratory evaluation officers in accordance with the requirements published in "Methods of Making Sanitation Ratings of Milk Supplies," "Evaluation of Milk Laboratories," and "Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk

Shippers,” respectively, as adopted by department rule. These officers shall conduct routine sanitation compliance survey ratings of milk producers, milk plants, laboratories, receiving stations, transfer stations, and manufacturers of single-service containers for milk and milk products. These ratings shall be made in accordance with the recommendations of the United States Food and Drug Administration published in Standard Methods for the Examination of Dairy Products.

(3) The department shall manage a program to issue permits to persons who test milk or milk products for milkfat content by weight, volume, chemical, electronic, or other means when the result of such test is used as a basis for payment for the milk or milk products.

(4) The department shall define by rule “cottage cheese,” “dry-curd cottage cheese,” and “lowfat cottage cheese.” The department shall periodically update these definitions to maintain conformity with the federal definitions.

~~(5)(a) The department shall adopt criteria for issuance of a state temporary marketing permit for milk and milk products that do not conform to existing standards and definitions.~~

~~(b) The department shall establish a fee, not to exceed \$100, for the issuance of a state temporary marketing permit or the use of a federal permit in the state. The fee shall cover all costs of issuing the state permit or processing the federal permit.~~

~~(5)(6)~~ The department may impound any reconstituted or recombined milk or any adulterated or misbranded milk or milk product to prevent its use for human consumption, and may dispose of it in a manner that does not create a nuisance.

~~(7)(7)~~ The department has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement and enforce the provisions of this chapter. In adopting these rules, the department shall be guided by and may conform to the definitions and standards of the administrative procedures and provisions of the pasteurized milk ordinance. The rules shall include, but are not limited to:

(a) Standards for milk and milk products.

(b) Provisions for the production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of all milk and milk products and imitation and substitute milk and milk products sold for public consumption in this state.

(c) Provisions for the inspection of dairy herds, dairy farms, and milk plants.

~~(d)~~ Provisions for the issuance and revocation of permits issued by the department pursuant to this chapter.

~~(7)(8)~~ The department shall not conduct routine tests or inspections on raw milk that is shipped from outside the state. Nothing in this subsection

shall be construed to limit the authority of the department to review industry records or sample milk at any stage of production, processing, or distribution in cases of suspected hazard to public health.

Section 9. Subsection (1) of section 502.091, Florida Statutes, is amended to read:

502.091 Milk and milk products which may be sold.—

(1) Only Grade A pasteurized milk and milk products ~~or certified pasteurized milk~~ shall be sold to the final consumer or to restaurants, soda fountains, grocery stores, or similar establishments.

(a) In an emergency, however, the department may authorize the sale of reconstituted pasteurized milk products, or pasteurized milk and milk products that have not been graded or the grade of that is unknown, in which case such milk and milk products shall be appropriately labeled, as determined by the department.

(b) If the department determines that milk is fit for human consumption even though it is less than Grade A because the producer failed to comply with the sanitation or bacterial standards defined in this chapter, or if any specific shipment of milk fails to comply with standards of the pasteurized milk ordinance, the department may issue a permit allowing the milk to be used in ungraded products, such as frozen desserts, which are being processed by such milk plant. During processing of such milk, it shall be pasteurized at a temperature of at least 175° F. for at least 15 seconds or at least 160° F. for at least 30 minutes.

Section 10. Subsection (2) of section 503.011, Florida Statutes, is amended to read:

503.011 Definitions.—The following definitions shall apply in the interpretation and enforcement of this chapter:

(2) “Frozen desserts” means the foods which conform to the provisions of “definitions and standards of identity for frozen desserts,” United States Food and Drug Administration, 21 C.F.R. part 135 (2004) ~~(1990)~~, and foods, defined by rule of the department, which resemble but do not conform to federal definitions. The term also includes, but is not limited to, “quiescently frozen confection,” “quiescently frozen dairy confection,” and “frozen dietary dairy dessert and frozen dietary dessert.”

Section 11. Section 531.39, Florida Statutes, is amended to read:

531.39 State standards.—Weights and measures that are traceable to the United States prototype standards supplied by the Federal Government ~~(Pub. L. No. 89-164, 1965)~~, or approved as being satisfactory by the National Institute of Standards and Technology, shall be the state primary standards of weights and measures, and shall be maintained in such calibration as prescribed by the National Institute of Standards and Technology. In addition, there shall be provided by the state such secondary standards as may be necessary to carry out the provisions of this chapter. The secondary

standards shall be verified upon their initial receipt and as often thereafter as deemed necessary by the department.

Section 12. Section 531.47, Florida Statutes, is amended to read:

531.47 Information required on packages.—Except as otherwise provided in this chapter or by rules adopted pursuant thereto, any package ~~introduced in intrastate commerce~~, kept for the purpose of sale, or offered or exposed for sale ~~in intrastate commerce~~ shall bear on the outside of the package a definite, plain, and conspicuous declaration of:

(1) The identity of the commodity in the package, unless the same can easily be identified through the wrapper or container.

(2) The net quantity of contents in terms of weight, measure, or count.

(3) The name and place of business of the manufacturer, packer, or distributor, in the case of any package kept or offered or exposed for sale or sold in any place other than on the premises where packed.

Section 13. Section 531.49, Florida Statutes, is amended to read:

531.49 Advertising packages for sale.—Whenever a packaged commodity is advertised in any manner with the retail price stated, there shall be closely and conspicuously associated with the retail price a declaration of quantity as is required by law or rule to appear on the package. ~~When a dual declaration is required, only the declaration that sets forth the quantity in terms of the smaller unit of weight or measure need appear in the advertisement.~~

Section 14. Subsection (16) of section 570.07, Florida Statutes, is amended, and subsection (41) is added to said section, 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:

(16) To enforce the state laws and rules relating to:

(a) Fruit and vegetable inspection and grading;

(b) Pesticide spray, residue inspection, and removal;

(c) Registration, labeling, inspection, and analysis of commercial stock feeds and commercial fertilizers;

(d) Classification, inspection, and sale of poultry and eggs;

(e) Registration, inspection, and analysis of gasolines and oils;

(f) Registration, labeling, inspection, and analysis of pesticides;

(g) Registration, labeling, inspection, germination testing, and sale of seeds, both common and certified;

- (h) Weights, measures, and standards;
- (i) Foods, as set forth in the Florida Food Safety Act;
- (j) Inspection and certification of honey;
- (k) Sale of liquid fuels;
- (l) Licensing of dealers in agricultural products;
- (m) Administration and enforcement of all regulatory legislation applying to milk and milk products, ice cream, and frozen desserts;
- (n) Recordation and inspection of marks and brands of livestock; and
- (o) All other regulatory laws relating to agriculture.

In order to ensure uniform health and safety standards, the adoption of standards and fines in the subject areas of paragraphs (a)-(n) is expressly preempted to the state and the department. Any local government enforcing the subject areas of paragraphs (a)-(n) must use the standards and fines set forth in the pertinent statutes or any rules adopted by the department pursuant to those statutes.

(41) Notwithstanding the provisions of s. 287.057(23)(a), that require all agencies to use the on-line procurement system developed by the Department of Management Services, the department may continue to use its own on-line system. However, vendors utilizing such system shall be prequalified as meeting mandatory requirements and qualifications and shall remit fees pursuant to s.287.057(23), and any rules implementing s. 287.057.

Section 15. Section 570.076, Florida Statutes, is created to read:

570.076 Environmental Stewardship Certification Program.—The department may, by rule, establish the Environmental Stewardship Certification Program consistent with this section. A rule adopted under this section must be developed in consultation with state universities, agricultural organizations, and other interested parties.

(1) The program must:

(a) Be integrated, to the maximum extent practicable, with programs that are sponsored by agricultural organizations or state universities.

(b) Be designed to recognize and promote agricultural operations or homeowner practices that demonstrate exemplary resource management that is related to environmental stewardship.

(c) Include a process to periodically review a certification to ensure compliance with the program requirements, including implementation by the certificateholder.

(d) Require periodic continuing education in relevant environmental stewardship issues in order to maintain certification.



(2) The department shall provide an agricultural certification under this program for implementation of one or more of the following criteria:

(a) A voluntary agreement between an agency and an agricultural producer for environmental improvement or water-resource protection.

(b) A conservation plan that meets or exceeds the requirements of the United States Department of Agriculture.

(c) Best management practices adopted by rule pursuant to s. 403.067(7)(d) or s. 570.085(2).

(3) The Soil and Water Conservation Council created by s. 582.06 may develop and recommend to the department for adoption additional criteria for receipt of an agricultural certification which may include, but not be limited to:

(a) Comprehensive management of all on-farm resources.

(b) Promotion of environmental awareness and responsible resource stewardship in agricultural or urban communities.

(c) Completion of a curriculum of study that is related to environmental issues and regulation.

(4) If needed, the department and the Institute of Food and Agricultural Sciences at the University of Florida may jointly develop a curriculum that provides instruction concerning environmental issues pertinent to agricultural certification and deliver such curriculum to, and certify its completion by, any person seeking certification or to maintain certification.

(5) The department may enter into agreements with third-party providers to administer or implement all or part of the program.

Section 16. Paragraph (a) of subsection (4) of section 570.9135, Florida Statutes, is amended to read:

570.9135 Beef Market Development Act; definitions; Florida Beef Council, Inc., creation, purposes, governing board, powers, and duties; referendum on assessments imposed on gross receipts from cattle sales; payments to organizations for services; collecting and refunding assessments; vote on continuing the act; council bylaws.—

(4) FLORIDA BEEF COUNCIL, INC.; CREATION; PURPOSES.—

(a) There is created the Florida Beef Council, Inc., a not-for-profit corporation organized under the laws of this state and operating as a direct-support ~~direct-service~~ organization of the department.

Section 17. Subsections (2) and (5) of section 570.952, Florida Statutes, are amended to read:

570.952 Florida Agriculture Center and Horse Park Authority.—

(2) The authority shall be composed of 21 members appointed by the commissioner.

~~(a) Members shall include:~~

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

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

~~3. One representative from Enterprise Florida, Inc.~~

~~4. One representative from the Department of Environmental Protection, Office of Greenways and Trails.~~

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

~~6. Two representatives of the tourism or hospitality industry.~~

~~7. Three representatives of the commercial agriculture industry.~~

~~8. Three representatives from recognized horse breed associations.~~

~~9. One representative of the veterinary industry.~~

~~10. Three representatives from the competitive equine industry.~~

~~11. One representative from the horse pleasure and trail riding industry.~~

~~12. One representative recommended by the Board of County Commissioners of Marion County.~~

~~(a)(b)~~ Initially, the commissioner shall appoint 11 members for 4-year terms and 10 members for 2-year terms. Thereafter, each member shall be appointed for a term of 4 years from the date of appointment, except that a vacancy shall be filled by appointment for the remainder of the term.

~~(b)(e)~~ Any member of the authority who fails to attend three consecutive authority meetings without good cause shall be deemed to have resigned from the authority. ~~The commissioner shall appoint a person representing the same interest or trade as the resigning member. Current members shall continue to serve until successors are appointed.~~

~~(c)~~ Terms for members appointed prior to July 1, 2005, shall expire on July 1, 2005.

~~(5)~~ The commissioner shall submit information annually to the Speaker of the House of Representatives and the President of the Senate reporting the activities of the Florida Agriculture Center and Horse Park Authority and the progress of the Florida Agriculture Center and Horse Park, including, but not limited to, pertinent planning, budgeting, and operational information concerning the authority.

Section 18. Subsections (15) through (29) of section 581.011, Florida Statutes, are renumbered as subsections (16) through (30), respectively and a new subsection (15) is added to said section to read:

581.011 Definitions.—As used in this chapter:

(15) “Invasive plant” means a naturalized plant that disrupts naturally occurring native plant communities.

Section 19. Subsection (4) is added to section 581.083, Florida Statutes, to read:

581.083 Introduction or release of plant pests, noxious weeds, or organisms affecting plant life; cultivation of nonnative plants; special permit and security required.—

(4) A person may not cultivate a nonnative plant, including a genetically engineered plant or a plant that has been introduced, for purposes of fuel production or purposes other than agriculture in plantings greater in size than 2 contiguous acres, except under a special permit issued by the department through the division, which is the sole agency responsible for issuing such special permits. Such a permit shall not be required if the department determines, in conjunction with the Institute of Food and Agricultural Sciences at the University of Florida, that the plant is not invasive and subsequently exempts the plant by rule.

(a)1. Each application for a special permit must be accompanied by a fee as described in subsection (2) and proof that the applicant has obtained a bond in the form approved by the department and issued by a surety company admitted to do business in this state or a certificate of deposit. The application must include, on a form provided by the department, the name of the applicant and the applicant’s address or the address of the applicant’s principal place of business; a statement completely identifying the nonnative plant to be cultivated; and a statement of the estimated cost of removing and destroying the plant that is the subject of the special permit and the basis for calculating or determining that estimate. If the applicant is a corporation, partnership, or other business entity, the applicant must also provide in the application the name and address of each officer, partner, or managing agent. The applicant shall notify the department within 10 business days of any change of address or change in the principal place of business. The department shall mail all notices to the applicant’s last known address.

2. As used in this subsection, the term “certificate of deposit” means a certificate of deposit at any recognized financial institution doing business in the United States. The department may not accept a certificate of deposit in connection with the issuance of a special permit unless the issuing institution is properly insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(b) Upon obtaining a permit, the permitholder may annually cultivate and maintain the nonnative plants as authorized by the special permit. If the permitholder ceases to maintain or cultivate the plants authorized by

the special permit, if the permit expires, or if the permit holder ceases to abide by the conditions of the special permit, the permit holder shall immediately remove and destroy the plants that are subject to the permit, if any remain. The permit holder shall notify the department of the removal and destruction of the plants within 10 days after such event.

(c) If the department:

1. Determines that the permit holder is no longer maintaining or cultivating the plants subject to the special permit and has not removed and destroyed the plants authorized by the special permit;

2. Determines that the continued maintenance or cultivation of the plants presents an imminent danger to public health, safety, or welfare;

3. Determines that the permit holder has exceeded the conditions of the authorized special permit; or

4. Receives a notice of cancellation of the surety bond,

the department may issue an immediate final order, which shall be immediately appealable or enjoined as provided by chapter 120, directing the permit holder to immediately remove and destroy the plants authorized to be cultivated under the special permit. A copy of the immediate final order shall be mailed to the permit holder and to the surety company or financial institution that has provided security for the special permit, if applicable.

(d) If, upon issuance by the department of an immediate final order to the permit holder, the permit holder fails to remove and destroy the plants subject to the special permit within 60 days after issuance of the order, or such shorter period as is designated in the order as public health, safety, or welfare requires, the department may enter the cultivated acreage and remove and destroy the plants that are the subject of the special permit. If the permit holder makes a written request to the department for an extension of time to remove and destroy the plants that demonstrates specific facts showing why the plants could not reasonably be removed and destroyed in the applicable timeframe, the department may extend the time for removing and destroying plants subject to a special permit. The reasonable costs and expenses incurred by the department for removing and destroying plants subject to a special permit shall be reimbursed to the department by the permit holder within 21 days after the date the permit holder and the surety company or financial institution are served a copy of the department's invoice for the costs and expenses incurred by the department to remove and destroy the cultivated plants, along with a notice of administrative rights, unless the permit holder or the surety company or financial institution object to the reasonableness of the invoice. In the event of an objection, the permit holder or surety company or financial institution is entitled to an administrative proceeding as provided by chapter 120. Upon entry of a final order determining the reasonableness of the incurred costs and expenses, the permit holder shall have 15 days following service of the final order to reimburse the department. Failure of the permit holder to timely reimburse the department for the incurred costs and expenses enti-

ties the department to reimbursement from the applicable bond or certificate of deposit.

(e) Each permitholder shall maintain for each separate growing location a bond or a certificate of deposit in an amount determined by the department, but not less than 150 percent of the estimated cost of removing and destroying the cultivated plants. The bond or certificate of deposit may not exceed \$5,000 per acre, unless a higher amount is determined by the department to be necessary to protect the public health, safety, and welfare or unless an exemption is granted by the department based on conditions specified in the application which would preclude the department from incurring the cost of removing and destroying the cultivated plants and would prevent injury to the public health, safety, and welfare. The aggregate liability of the surety company or financial institution to all persons for all breaches of the conditions of the bond or certificate of deposit may not exceed the amount of the bond or certificate of deposit. The original bond or certificate of deposit required by this subsection shall be filed with the department. A surety company shall give the department 30 days' written notice of cancellation, by certified mail, in order to cancel a bond. Cancellation of a bond does not relieve a surety company of liability for paying to the department all costs and expenses incurred or to be incurred for removing and destroying the permitted plants covered by an immediate final order authorized under paragraph (c). A bond or certificate of deposit must be provided or assigned in the exact name in which an applicant applies for a special permit. The penal sum of the bond or certificate of deposit to be furnished to the department by a permitholder in the amount specified in this paragraph must guarantee payment of the costs and expenses incurred or to be incurred by the department for removing and destroying the plants cultivated under the issued special permit. The bond or certificate of deposit assignment or agreement must be upon a form prescribed or approved by the department and must be conditioned to secure the faithful accounting for and payment of all costs and expenses incurred by the department for removing and destroying all plants cultivated under the special permit. The bond or certificate of deposit assignment or agreement must include terms binding the instrument to the Commissioner of Agriculture. Such certificate of deposit shall be presented with an assignment of the permitholder's rights in the certificate in favor of the Commissioner of Agriculture on a form prescribed by the department and with a letter from the issuing institution acknowledging that the assignment has been properly recorded on the books of the issuing institution and will be honored by the issuing institution. Such assignment is irrevocable while a special permit is in effect and for an additional period of 6 months after termination of the special permit if operations to remove and destroy the permitted plants are not continuing and if the department's invoice remains unpaid by the permitholder under the issued immediate final order. If operations to remove and destroy the plants are pending, the assignment remains in effect until all plants are removed and destroyed and the department's invoice has been paid. The bond or certificate of deposit may be released by the assignee of the surety company or financial institution to the permitholder, or to the permitholder's successors, assignee, or heirs, if operations to remove and destroy the permitted plants are not pending and no invoice remains unpaid at the conclusion of 6 months after the last effective date of the special permit. The

department may not accept a certificate of deposit that contains any provision that would give to any person any prior rights or claim on the proceeds or principal of such certificate of deposit. The department shall determine by rule whether an annual bond or certificate of deposit will be required. The amount of such bond or certificate of deposit shall be increased, upon order of the department, at any time if the department finds such increase to be warranted by the cultivating operations of the permitholder. In the same manner, the amount of such bond or certificate of deposit may be decreased when a decrease in the cultivating operations warrants such decrease. This paragraph applies to any bond or certificate of deposit, regardless of the anniversary date of its issuance, expiration, or renewal.

(f) In order to carry out the purposes of this subsection, the department or its agents may require from any permitholder verified statements of the cultivated acreage subject to the special permit and may review the permitholder's business or cultivation records at her or his place of business during normal business hours in order to determine the acreage cultivated. The failure of a permitholder to furnish such statement, to make such records available, or to make and deliver a new or additional bond or certificate of deposit is cause for suspension of the special permit. If the department finds such failure to be willful, the special permit may be revoked.

Section 20. Subsection (3) of section 585.002, Florida Statutes, is amended to read:

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

(3) The department, to the exclusion of all other state agencies, shall have regulatory authority over the possession, control, care, and maintenance of ostriches, emus, ~~and rheas,~~ and bison domesticated and confined for commercial farming purposes, except those kept and maintained on hunting preserves or game farms or primarily for exhibition purposes in zoos, carnivals, circuses, and other such establishments where such species are kept primarily for display to the public.

Section 21. Paragraph (c) of subsection (3) of section 590.125, Florida Statutes, is amended to read:

590.125 Open burning authorized by the division.—

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

(c) Neither a property owner nor ~~or~~ his or her agent is ~~neither~~ liable pursuant to s. 590.13 for damage or injury caused by the fire or resulting smoke ~~or nor~~ considered to be in violation of subsection (2) for burns conducted in accordance with this subsection unless gross negligence is proven.

Section 22. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application and, to this end, the provisions of this act are declared severable.

Section 23. This act shall take effect July 1, 2005.

Approved by the Governor June 10, 2005.

Filed in Office Secretary of State June 10, 2005.