

CHAPTER 2011-206

Committee Substitute for Committee Substitute for House Bill No. 7215

An act relating to the Department of Agriculture and Consumer Services; amending s. 20.14, F.S.; deleting a provision establishing the Division of Dairy within the department; amending s. 193.461, F.S.; redefining the term “agricultural purposes” as it relates to the assessment of land classified as agricultural by the property appraiser; amending s. 215.981, F.S.; exempting certain direct-support organizations and citizen support organizations for the department from obtaining an independent audit; requiring the department to establish accounting and financial management guidelines for such organizations and annually review the operations and finances of a selected number of such organizations; amending s. 253.02, F.S.; providing for the grantee of easements for electrical transmission to pay the lead manager of the state-owned lands or, when there is no lead manager, the Department of Environmental Protection if suitable replacement uplands cannot be identified; amending s. 261.04, F.S.; deleting provisions requiring the reimbursement of members of the Off-Highway Vehicle Recreation Advisory Committee for per diem and travel expenses; amending s. 381.0014, F.S., to conform to changes made by the act; amending s. 482.051, F.S.; providing additional methods for pest control licensees to give certain emergency notice to the Department of Agriculture and Consumer Services before performing general fumigation; amending s. 482.071, F.S.; revising the minimum bodily injury and property damage insurance coverage required for pest control businesses; creating s. 482.072, F.S.; providing for licensure by the department of pest control customer contact centers; providing application requirements; providing for fees, licensure renewal, licensure expiration, transfer of licenses, and penalties; creating s. 482.157, F.S.; providing for limited certification of commercial wildlife trappers; providing requirements for certification, examination, and fees; limiting the scope of work permitted by certificateholders; amending s. 482.183, F.S.; providing that licensees and certificateholders who practice accepted pest control methods are immune from liability for violating laws prohibiting cruelty to animals; providing for applicability; amending s. 482.226, F.S.; revising the minimum financial responsibility requirements for licensees that perform wood-destroying organism inspections; amending s. 482.243, F.S.; deleting provisions relating to the reimbursement of members of the Pest Control Enforcement Advisory Council for expenses; amending s. 487.041, F.S.; providing that registration, supplemental, and late fees related to the registration of pesticide brands with the department are nonrefundable; providing requirements for label revisions of pesticide brands; providing requirements for label revisions that must be reviewed by the United States Environmental Protection Agency; requiring payments of pesticide registration fees to be submitted electronically by a date certain; amending s. 487.0615, F.S.; deleting provisions requiring the reimbursement of

members of the Pesticide Review Council for per diem and travel expenses; amending s. 500.70, F.S.; requiring certain persons who produce, harvest, pack, or repack tomatoes to register each location of a tomato farm, tomato greenhouse, tomato packinghouse, or tomato repacker by a specified date; authorizing the department to set a registration fee; requiring that funds collected be deposited into the General Inspection Trust Fund; revising the title of chapter 502, F.S.; amending s. 502.012, F.S.; defining terms related to the department's regulation of frozen desserts; amending s. 502.013, F.S.; revising legislative purpose and intent, to conform; amending s. 502.014, F.S.; revising the department's powers and duties; authorizing the department to administer and enforce regulations of frozen desserts and frozen dessert mix; revising the federal publication upon which certain milk sanitation ratings are based; authorizing the department to adopt rules; repealing s. 502.032, F.S., relating to milkfat tester's permits and permit fees; amending s. 502.053, F.S.; providing permitting and licensing requirements and imposing permit and license fees for frozen dessert plants and milkfat testers; providing certain reporting requirements for frozen dessert plant permitholders; providing certain recordkeeping requirements for licensed milkfat testers; providing an exemption; amending s. 502.054, F.S.; requiring the department to inspect certain frozen desserts and frozen dessert plants; amending s. 502.091, F.S.; authorizing sales of certain ice cream and frozen desserts; amending s. 502.121, F.S.; restricting the construction or extensive alteration of frozen dessert plants; amending ss. 502.181 and 502.231, F.S.; prohibiting certain acts related to the regulation of frozen desserts; providing penalties; amending s. 502.232, F.S.; preempting to the state the local regulation of frozen desserts at wholesale; repealing chapter 503, F.S., relating to the state's regulation of frozen desserts, enforcement and penalties for violations of such regulations, licensure of frozen dessert plants, and preemption of municipal and county regulations of frozen desserts; amending ss. 527.22 and 559.9221, F.S.; deleting provisions authorizing the reimbursement of members of the Florida Propane Gas Education, Safety, and Research Council and the Motor Vehicle Repair Advisory Council for per diem and travel expenses; amending ss. 570.07 and 576.181, F.S.; requiring the department to regulate the sale, composition, packaging, labeling, wholesale and retail distribution, and formulation of fertilizer; preempting such regulation of fertilizer to the state; exempting certain ordinances adopted before a specified date from such preemption; authorizing county and municipal governments to enforce such ordinances exempt from preemption; revising the department's powers and duties relating to pollution control and the prevention of wildfires; conforming provisions; amending s. 570.0705, F.S.; deleting provisions requiring the reimbursement for per diem and travel expenses of members of certain ad hoc advisory committees appointed by the Commissioner of Agriculture; amending s. 570.074, F.S.; renaming the Office of Water Coordination and revising its policy jurisdiction; amending s. 570.18, F.S., to conform; amending s. 570.23, F.S.; deleting provisions requiring the reimbursement of members of the State Agricultural Advisory Council for per diem and travel expenses; amending s. 570.29, F.S.; deleting a provision establishing

the Division of Dairy Industry within the department; amending ss. 570.38 and 570.382, F.S.; deleting provisions requiring the reimbursement of members of the Animal Industry Technical Council and the Arabian Horse Council for per diem and travel expenses; repealing ss. 570.40 and 570.41, F.S., relating to the powers and duties of the Division of Dairy within the department and the qualifications and duties of the division's director; amending s. 570.42, F.S.; deleting provisions requiring the reimbursement of members of the Dairy Industry Technical Council for per diem and travel expenses; amending s. 570.50, F.S.; conforming provisions; requiring the Division of Food Safety within the department to inspect certain dairy farms and plants, perform certain analyses and tests, and enforce certain rules and provisions of law; amending s. 570.51, F.S., to conform; amending s. 570.543, F.S.; deleting provisions requiring the reimbursement of members of the Florida Consumers' Council for per diem and travel expenses; amending s. 570.954, F.S.; removing the requirement that the department coordinate with and solicit the expertise of the state energy office when developing the farm-to-fuel initiative; amending ss. 571.28, 573.112, 576.091, 580.151, 581.186, and 586.161, F.S.; deleting provisions requiring the reimbursement of members of the Florida Agricultural Promotional Campaign Advisory Council, certain ad hoc advisory councils appointed to advise the department concerning the issuance of marketing orders, the Fertilizer Technical Council, the Commercial Feed Technical Council, the Endangered Plant Advisory Council, and the Honeybee Technical Council for per diem and travel expenses; amending s. 582.30, F.S.; authorizing the Commissioner of Agriculture to certify the dissolution or discontinuance of a soil and water conservation district without the review or recommendation of the Soil and Water Conservation Council under certain circumstances; amending s. 590.015, F.S.; revising and providing definitions for purposes of forest protection; amending s. 590.02, F.S.; authorizing forest operations administrators to be certified as forestry firefighters; granting the department certain exclusive authority over the Florida Building Code; authorizing the department to retain, transfer, warehouse, bid, destroy, scrap, or dispose of certain surplus equipment and vehicles; authorizing the department to retain any moneys received from the disposition of certain state-owned equipment and vehicles; providing that moneys received may be used for the acquisition of certain exchange and surplus equipment and all necessary operating expenditures related to the equipment; requiring the department to maintain records of the accounts into which the money is deposited; granting the department exclusive authority to require and issue authorizations for broadcast burning, agricultural pile burning, and silvicultural pile burning; preempting other governmental entities from adopting laws, regulations, rules, or policies pertaining to broadcast burning, agricultural pile burning, or silvicultural pile burning unless an emergency order has been declared; authorizing the department to delegate its authority to a county or municipality to issue authorizations for the burning of yard trash and debris from land-clearing operations; amending s. 590.125, F.S.; revising and providing definitions relating to open burning authorizations; specifying purposes of certified prescribed

burning; requiring the division's authorization for certified pile burning; providing pile burning requirements; limiting the liability of property owners or agents engaged in pile burning; providing for the certification of pile burners; providing penalties for violations by certified pile burners; requiring the division to adopt rules to regulate certified pile burning; revising notice requirements for wildfire hazard reduction treatments; requiring division approval of local government open burning authorization programs; providing program requirements; authorizing the division to resume administration of a local government's program under certain circumstances; providing penalties for violations of local government open burning requirements; amending s. 590.14, F.S.; authorizing a division employee to issue a notice of violation for any division rule; authorizing the division to impose an administrative fine for a violation of any division rule; providing penalties for certain violations; providing legislative intent; amending ss. 597.005 and 599.002, F.S.; deleting provisions requiring the reimbursement of members of the Aquaculture Review Council and the Viticulture Advisory Council for per diem and travel expenses; amending s. 616.17, F.S.; providing certain authorities or fair associations with immunity from liability for damages resulting from exhibits and concessions at public fairs; providing exceptions; amending s. 616.252, F.S.; providing for the appointment and term of a nonvoting youth member of the Florida State Fair Authority; deleting provisions requiring staggered terms; prohibiting the reimbursement of members of the Florida State Fair Authority for per diem and travel expenses; excluding the youth member from compensation for special or full-time service performed on behalf of the authority; amending s. 812.014, F.S.; providing penalties for the theft of bee colonies of registered beekeepers; amending s. 812.015, F.S.; redefining the term "farmer" to include a person who grows or produces honey; redefining the term "farm theft" to include the unlawful taking possession of equipment and associated materials used to grow or produce certain farm products; renaming the department's Division of Forestry as the Florida Forest Service; providing for conforming legislation; providing for assistance to certain legislative substantive committees by the Division of Statutory Revision of the Office of Legislative Services for certain purposes; amending ss. 20.14, 261.03, 570.29, 570.548, 570.549, 570.903, and 590.015, F.S., to conform; providing an appropriation; providing an effective date.

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

Section 1. Paragraphs (g) through (m) of subsection (2) of section 20.14, Florida Statutes, are redesignated as paragraphs (f) through (l), respectively, and present paragraph (f) of that subsection 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:

(f) ~~Dairy Industry.~~

Section 2. Subsection (5) of section 193.461, Florida Statutes, is amended to read:

193.461 Agricultural lands; classification and assessment; mandated eradication or quarantine program.—

(5) For the purpose of this section, “agricultural purposes” includes, but is not limited to, horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, when the land is used principally for the production of tropical fish; aquaculture; sod farming; and all forms of farm products as defined in s. 823.14(3) and farm production.

Section 3. Subsection (2) of section 215.981, Florida Statutes, is amended to read:

215.981 Audits of state agency direct-support organizations and citizen support organizations.—

(2) ~~Notwithstanding the provisions of subsection (1), direct-support organizations and citizen support organizations for the Department of Environmental Protection or direct-support organizations and citizen support organizations for the Department of Agriculture and Consumer Services that are not for profit and that have annual expenditures of less than \$300,000 are not required to have an independent audit. The respective department shall establish accounting and financial management guidelines for those organizations under its the department’s jurisdiction. Each year, the respective department shall conduct operational and financial reviews of a selected number of direct-support organizations or citizen support organizations that which fall below the audit threshold established in this subsection.~~

Section 4. Paragraph (b) of subsection (2) of section 253.02, Florida Statutes, is amended to read:

253.02 Board of trustees; powers and duties.—

(2)

(b) The authority of the board of trustees to grant easements for rights-of-way over, across, and upon uplands the title to which is vested in the board of trustees for the construction and operation of electric transmission and distribution facilities and related appurtenances is hereby confirmed. The board of trustees may delegate to the Secretary of Environmental Protection the authority to grant such easements on its behalf. All easements for rights-of-way over, across, and upon uplands the title to which is vested in the board of trustees for the construction and operation of electric transmission and distribution facilities and related appurtenances which are approved by the Secretary of Environmental Protection pursuant to the authority delegated by the board of trustees shall meet the following criteria:

1. Such easements shall not prevent the use of the state-owned uplands adjacent to the easement area for the purposes for which such lands were acquired and shall not unreasonably diminish the ecological, conservation, or recreational values of the state-owned uplands adjacent to the easement area.

2. There is no practical and prudent alternative to locating the linear facility and related appurtenances on state-owned upland. For purposes of this subparagraph, the test of practicality and prudence shall compare the social, economic, and environmental effects of the alternatives.

3. Appropriate steps are taken to minimize the impacts to state-owned uplands. Such steps may include:

a. Siting of facilities so as to reduce impacts and minimize fragmentation of the overall state-owned parcel;

b. Avoiding significant wildlife habitat, wetlands, or other valuable natural resources to the maximum extent practicable; or

c. Avoiding interference with active land management practices, such as prescribed burning.

4. Except for easements granted as a part of a land exchange to accomplish a recreational or conservation benefit or other public purpose, in exchange for such easements, the grantee pays an amount equal to the market value of the interest acquired. In addition, for the initial grant of such easements only, the grantee shall provide additional compensation by vesting in the board of trustees fee simple title to other available uplands that are 1.5 times the size of the easement acquired by the grantee. The Secretary of Environmental Protection shall approve the property to be acquired on behalf of the board of trustees based on the geographic location in relation to the land proposed to be under easement and a determination that economic, ecological, and recreational value is at least equivalent to the value of the lands under proposed easement. Priority for replacement uplands shall be given to parcels identified as inholdings and additions to public lands and lands on a Florida Forever land acquisition list. However, if suitable replacement uplands cannot be identified, the grantee shall provide additional compensation for the initial grant of such easements only by paying to the lead manager of the state-owned lands or, when there is no lead manager, by paying to the department an amount equal to two times the current market value of the state-owned land or the highest and best use value at the time of purchase, whichever is greater. When determining such use of funds, priority shall be given to parcels identified as inholdings and additions to public lands and lands on a Florida Forever land acquisition list.

Section 5. Subsection (5) of section 261.04, Florida Statutes, is amended to read:

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

(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.

Section 6. Section 381.0014, Florida Statutes, is amended to read:

381.0014 Regulations and ordinances superseded.—The rules adopted by the department under the provisions of this chapter shall, as to matters of public health, supersede all rules enacted by other state departments, boards or commissions, or ordinances and regulations enacted by municipalities, except that this chapter does not alter or supersede any of the provisions set forth in ~~chapter~~ chapters 502 and 503 or any rule adopted under ~~that chapter~~ the authority of those chapters.

Section 7. Subsection (4) of section 482.051, Florida Statutes, is amended to read:

482.051 Rules.—The department has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter. Prior to proposing the adoption of a rule, the department shall counsel with members of the pest control industry concerning the proposed rule. The department shall adopt rules for the protection of the health, safety, and welfare of pest control employees and the general public which require:

(4) That a licensee, before performing general fumigation, notify in writing the department inspector having jurisdiction over the location where the fumigation is to be performed, which notice must be received by the department inspector at least 24 hours ~~before in advance of~~ the fumigation and must contain such information as the department requires. However, in an authentic and verifiable emergency, when 24 hours' advance ~~notice notification~~ notice is not possible, advance notice may be given by telephone, facsimile, or any form of acceptable electronic communication, ~~telegraph notice may be given;~~ but such notice must be immediately followed by written confirmation providing the required information.

Section 8. Subsection (4) of section 482.071, Florida Statutes, is amended to read:

482.071 Licenses.—

(4) A licensee may not operate a pest control business without carrying the required insurance coverage. Each person making application for a pest control business license or renewal thereof must furnish to the department a certificate of insurance that meets the requirements for minimum financial responsibility for bodily injury and property damage consisting of:

(a) ~~Bodily injury: \$250,000 per \$100,000 each person and \$500,000 per \$300,000 each occurrence; and property damage: \$250,000 per \$50,000 each occurrence and \$500,000 \$100,000 in the aggregate; or~~

(b) ~~Combined single-limit coverage: \$500,000 \$400,000 in the aggregate.~~

Section 9. Section 482.072, Florida Statutes, is created to read:

482.072 Pest control customer contact centers.—

(1) The department may issue a license to a qualified business to operate a customer contact center, to solicit pest control business, or to provide services to customers for one or more business locations licensed under s. 482.071. A person may not operate a customer contact center for a pest control business that is not licensed by the department.

(2)(a) Before operating a customer contact center, and biennially thereafter, on or before an anniversary date set by the department for a licensed customer contact center location, the pest control business must apply to the department for a license under this chapter, or a renewal thereof, for each customer contact center location. An application must be submitted in the format prescribed by the department.

(b) The department shall establish a fee of at least \$600, but not more than \$1,000, for the issuance of a customer contact center license and a fee of at least \$600, but not more than \$1,000, for renewal of a customer contact center license. However, until rules for renewal fees are adopted, the initial licensing fee and renewal fee are each \$600. The department shall establish a grace period, not to exceed 30 calendar days after the license's anniversary renewal date, and shall assess a late fee of \$150, in addition to the renewal fee, for a license that is renewed after the grace period.

(c) A license automatically expires 60 calendar days after the anniversary renewal date unless the license is renewed before that date. When a license expires, it may be reinstated only upon reapplication and payment of the license renewal fee and a late renewal fee.

(d) A license automatically expires if a licensee changes the business address of its customer contact center location. The department shall issue a new license upon payment of a \$250 fee. The new license automatically expires 60 calendar days after the anniversary renewal date of the former license unless the license is renewed before that date.

(e) The department may not issue or renew a license to operate a customer contact center unless the pest control business licensees for which the customer contact center solicits business are owned in common by a person or business entity recognized by this state.

(f) The department may deny a license or refuse to renew a license if the applicant or licensee, or one or more of the applicant's or licensee's directors, officers, owners, or general partners, are or have been directors, officers,

owners, or general partners of a pest control business that meets the conditions in s. 482.071(2)(g).

(g) Sections 482.091 and 482.152 do not apply to a person who solicits pest control services or provides customer service in a licensed customer contact center unless the person performs pest control as defined in s. 482.021(22)(a)-(d), executes a pest control contract, or accepts remuneration for such work.

(h) Section 482.071(2)(e) does not apply to a license issued under this section.

(3)(a) The department shall adopt rules establishing requirements and procedures for customer contact center recordkeeping and monitoring to ensure compliance with this section and rules adopted in accordance with this section.

(b) Notwithstanding any other provision of this section:

1. A customer contact center licensee is subject to disciplinary action under s. 482.161 for a violation of this section or a rule adopted under this section committed by a person who solicits pest control services or provides customer service in a customer contact center.

2. A pest control business licensee may be subject to disciplinary action under s. 482.161 for a violation of this section or a rule adopted under this section committed by a person who solicits pest control services or provides customer service in a customer contact center operated by a licensee if the licensee participates in the violation.

Section 10. Section 482.157, Florida Statutes, is created to read:

482.157 Limited certification for commercial wildlife management personnel.—

(1) The department shall establish a limited certificate that authorizes a person who engages in the commercial trapping of wildlife to use non-chemical methods, including traps, mechanical or electronic devices, and exclusionary techniques to control commensal rodents.

(2) The department shall issue a limited certificate to an applicant who:

(a) Submits an application and examination fee of at least \$150, but not more than \$300, as prescribed by the department by rule;

(b) Passes an examination administered by the department. The department shall provide the appropriate study materials for the examination and make the examination readily available to applicants in each county as necessary, but not less frequently than quarterly; and

(c) Provides proof, including a certificate of insurance, that the applicant has met the minimum bodily injury and property damage insurance requirements in s. 482.071(4).

(3) An application for recertification must be made annually and be accompanied by a recertification fee of at least \$75, but not more than \$150, as prescribed by the department by rule. The application must also be accompanied by proof of completion of the required 4 classroom hours of acceptable continuing education and the required proof of insurance. After a grace period not exceeding 30 calendar days after the recertification renewal date, the department shall assess a late fee of \$50 in addition to the renewal fee. A certificate automatically expires 180 days after the recertification date if the renewal fee has not been paid. After expiration, the department shall issue a new certificate only if the applicant successfully passes a reexamination and pays the examination fee and late fee.

(4) Certification under this section does not authorize:

(a) The use of pesticides or chemical substances, other than adhesive materials, to control rodents or other nuisance wildlife in, on, or under structures;

(b) Operation of a pest control business; or

(c) Supervision of an uncertified person using nonchemical methods to control rodents.

Section 11. Section 482.183, Florida Statutes, is amended to read:

482.183 Limitations.—

(1)(a) A person may not be charged with a violation of this chapter or any rule adopted pursuant to this chapter more than 3 years after the date of the violation.

(b)(2) For the purpose of this subsection ~~section~~, a charge of violation is considered to have been made upon the issuance of a notice or citation by the department charging such violation.

(2) A person licensed or certified under this chapter who practices accepted pest control methods is immune from liability under s. 828.12.

(3) This chapter does not exempt a person from the rules, regulations, or orders of the Fish and Wildlife Conservation Commission.

Section 12. Subsection (6) of section 482.226, Florida Statutes, is amended to read:

482.226 Wood-destroying organism inspection report; notice of inspection or treatment; financial responsibility.—

(6) Any licensee that performs wood-destroying organism inspections in accordance with subsection (1) must meet minimum financial responsibility in the form of errors and omissions (professional liability) insurance coverage or bond in an amount no less than ~~\$500,000~~ \$50,000 in the aggregate and ~~\$250,000~~ \$25,000 per occurrence, or demonstrate that the licensee has equity or net worth of no less than ~~\$500,000~~ \$100,000 as determined by generally accepted accounting principles substantiated by a certified public accountant’s review or certified audit. The licensee must show proof of meeting this requirement at the time of license application or renewal thereof.

Section 13. Subsection (6) of section 482.243, Florida Statutes, is amended to read:

482.243 Pest Control Enforcement Advisory Council.—

(6) The meetings, powers and duties, procedures, and 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.

Section 14. Paragraph (a) of subsection (1) of section 487.041, Florida Statutes, is amended, and paragraphs (h), (i), and (j) are added to that subsection, to read:

487.041 Registration.—

(1)(a) Effective January 1, 2009, each brand of pesticide, as defined in s. 487.021, which is distributed, sold, or offered for sale, except as provided in this section, within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state must be registered in the office of the department, and such registration shall be renewed biennially. Emergency exemptions from registration may be authorized in accordance with the rules of the department. The registrant shall file with the department a statement including:

1. The name, business mailing address, and street address of the registrant.
2. The name of the brand of pesticide.
3. An ingredient statement and a complete current copy of the labeling accompanying the brand of ~~the~~ pesticide, which must conform to the registration, and a statement of all claims to be made for it, including directions for use and a guaranteed analysis showing the names and percentages by weight of each active ingredient, the total percentage of inert ingredients, and the names and percentages by weight of each “added ingredient.”

(h) All registration fees, including supplemental fees and late fees, are nonrefundable.

(i) For any currently registered pesticide product brand that undergoes labeling revisions during the registration period, the registrant shall submit to the department a copy of the revised labeling along with a cover letter detailing such revisions before the sale or distribution in this state of the product brand with the revised labeling. If the labeling revisions require notification of an amendment review by the United States Environmental Protection Agency, the registrant shall submit an additional copy of the labeling marked to identify those revisions.

(j) Effective January 1, 2013, all payments of any pesticide registration fees, including supplemental fees and late fees, shall be submitted electronically using the department's Internet website for registration of pesticide product brands.

Section 15. Subsection (5) of section 487.0615, Florida Statutes, is amended to read:

487.0615 Pesticide Review Council.—

(5) Members of the council shall receive no compensation for their services, ~~but are entitled to be reimbursed for per diem and travel expenses as provided in s. 112.061.~~

Section 16. Subsection (6) of section 500.70, Florida Statutes, is renumbered as subsection (7), and a new subsection (6) is added to that section to read:

500.70 Tomato food safety standards; inspections; penalties; tomato good agricultural practices; tomato best management practices.—

(6) Any person who produces, harvests, packs, or repacks tomatoes in this state and does not hold a food permit issued under s. 500.12 shall annually register each location of a tomato farm, tomato greenhouse, tomato packing-house, or tomato repacker by August 1 on a form prescribed by the department. Any person who produces, harvests, packs, or repacks tomatoes at more than one location may submit one registration for all such locations but must provide the physical address of each location. The department may set by rule an annual registration fee not to exceed \$500. Moneys collected pursuant to this subsection shall be deposited into the General Inspection Trust Fund.

Section 17. The title of chapter 502, Florida Statutes, is redesignated as “MILK, MILK PRODUCTS, AND FROZEN DESSERTS.”

Section 18. Section 502.012, Florida Statutes, is amended to read:

502.012 Definitions.—~~As used in this chapter, the term~~ The following definitions shall apply in the interpretation and enforcement of this law:

(1) “Bulk milk pickup tanker” means a vehicle, including the truck and tank, and necessary attachments, used by a milk hauler to transport bulk

raw milk for pasteurization from a dairy farm to a milk plant, receiving station, or transfer station.

(2) “Dairy farm” means any place or premises where one or more cows, goats, sheep, water buffalo, or other hooved mammals are kept and from which a part or all of the milk is provided, sold, or offered for sale.

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

(4) “Frozen dessert” means a specific standardized frozen dessert described in 21 C.F.R. part 135 and any other food defined by rule of the department that resembles such standardized frozen dessert but does not conform to the specific description of such standardized frozen dessert in 21 C.F.R. part 135. The term includes, but is not limited to, a quiescently frozen confection, a quiescently frozen dairy confection, a frozen dietary dairy dessert, and a frozen dietary dessert.

(5) “Frozen desserts manufacturer” means a person who manufactures, processes, converts, partially freezes, or freezes any mix or frozen dessert for distribution or sale.

(6) “Frozen desserts plant” means any location or premises at which frozen desserts or mix are manufactured, processed, or frozen for distribution or sale at wholesale.

(7) “Frozen desserts retail establishment” means any location or premises, including a retail store, stand, hotel, boardinghouse, restaurant, vehicle, or mobile unit, at which frozen desserts are frozen, partially frozen, or dispensed for sale at retail.

(8) “Frozen dietary dairy dessert” or “frozen dietary dessert” means a food for any special dietary use, prepared by freezing, with or without agitation, and composed of a pasteurized mix that may contain fat, protein, carbohydrates, natural or artificial sweeteners, flavoring, stabilizers, emulsifiers, vitamins, and minerals.

(9)(4) “Grade ‘A’ pasteurized milk ordinance” means the document entitled “Grade ‘A’ Pasteurized Milk Ordinance, United States Department of Health and Human Services, Public Health Service, Food and Drug Administration,” including all associated appendices, as adopted by department rule.

(10)(5) “Imitation milk and imitation milk products” means those foods that have the physical characteristics, such as taste, flavor, body, texture, or appearance, of milk or milk products as defined in this chapter and the Grade “A” pasteurized milk ordinance but do not come within the definition of “milk” or “milk products” and are nutritionally inferior to the product imitated.

(11)(6) “Milk” means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows, goats, sheep, water buffalo, or other hooved mammals.

(12)(7) “Milk distributor” means any person who offers for sale or sells to another person any milk or milk product.

(13)(8) “Milk products” means products made with milk that is processed in some manner, including being whipped, acidified, cultured, concentrated, lactose-reduced, or sodium-reduced or aseptically processed, or having the addition or subtraction of milkfat, the addition of safe and suitable microbial organisms, or the addition of safe and suitable optional ingredients for protein, vitamin, or mineral fortification. “Milk products” do not include products such as evaporated milk, condensed milk, eggnog in a rigid metal container, dietary products, infant formula, or ice cream and other desserts.

(14)(9) “Milkfat” or “butterfat” means the fat contained in milk.

(15)(10) “Milk hauler” means any person who transports raw milk or raw milk products to or from a milk plant, receiving station, or transfer station.

(16)(11) “Milk plant” means any place, premises, or establishment where milk or milk products are collected, handled, processed, stored, pasteurized, aseptically processed, bottled, or prepared for distribution.

(17)(12) “Milk plant operator” means any person responsible for receiving, processing, pasteurizing, or packaging milk and milk products, or performing any other related operation.

(18)(13) “Milk producer” means any person who operates a dairy farm and provides, sells, or offers for sale milk to a milk plant, receiving station, or transfer station.

(19)(14) “Milk tank truck” means either a bulk milk pickup tanker or a milk transport tank.

(20)(15) “Milk transport tank” means a vehicle, including the truck and tank, used by a milk hauler to transport bulk shipments of milk from a milk plant, receiving station, or transfer station to another milk plant, receiving station, or transfer station.

(21) “Quiescently frozen confection” means a clean and wholesome frozen, sweetened, flavored product that, while being frozen, was not stirred or agitated (generally known as quiescent freezing). The confection may be acidulated with food-grade acid, may contain milk solids or water, or may be made with or without added harmless pure or imitation flavoring and with or without harmless coloring. The finished product must not contain more than 0.5 percent by weight of stabilizer composed of wholesome, edible material and must not contain less than 17 percent by weight of total food solids. In the production of the confection, processing or mixing before quiescent

freezing that develops in the finished confection mix any physical expansion in excess of 10 percent may not be used.

(22) “Quiescently frozen dairy confection” means a clean and wholesome frozen product made from water, milk products, and sugar, with added harmless pure or imitation flavoring, with or without added harmless coloring, with or without added stabilizer, or with or without added emulsifier, that, while being frozen, was not stirred or agitated (generally known as quiescent freezing). The confection must not contain less than 13 percent by weight of total milk solids, less than 33 percent by weight of total food solids, more than 0.5 percent by weight of stabilizer, or more than 0.2 percent of weight by emulsifier. Stabilizer and emulsifier must be composed of wholesome, edible material. In the production of a quiescently frozen dairy confection, processing or mixing before quiescently freezing that develops in the finished confection mix any physical expansion in excess of 10 percent may not be used.

~~(23)~~(16) “Raw milk” means unprocessed milk.

~~(24)~~(17) “Receiving station” means any place, premises, or establishment where raw milk is received, collected, handled, stored, or cooled and is prepared for further transporting.

~~(25)~~(18) “Substitute milk and substitute milk products” means those foods that have the physical characteristics, such as taste, flavor, body, texture, or appearance, of milk or milk products as defined in this chapter and the Grade “A” pasteurized milk ordinance but do not come within the definition of “milk” or “milk products” and are nutritionally equivalent to the product for which they are substitutes.

~~(26)~~(19) “Transfer station” means any place, premises, or establishment where milk or milk products are transferred directly from one milk tank truck to another.

~~(27)~~(20) “Washing station” means any place, premises, or establishment where milk tank trucks are cleaned and sanitized.

Section 19. Section 502.013, Florida Statutes, is amended to read:

502.013 Purpose; intent.—

(1) PURPOSE.—The purpose of this chapter is to:

(a) Ensure, without undue burden on either the regulatory agency or the dairy industry, that milk, ~~and milk products,~~ frozen desserts, and frozen dessert mix sold or offered for sale in this state are produced under sanitary conditions, are wholesome and fit for human consumption, and are correctly labeled as to grade, quality, and source of production.

(b) Encourage uniformity and a high level of sanitation in milk and frozen dessert production practices in this state.

(c) Facilitate the shipment and acceptance of milk and milk products of high sanitary quality in interstate and intrastate commerce.

(d) Ensure the normal flow of fresh wholesome milk and milk products from the farmer to the consumer by uniform regulation of the shelf life of milk and milk products in this state.

(2) INTENT.—

(a) It is the intent of the Legislature to:

1. Eliminate, to the extent practicable, overlapping and unnecessary inspections of dairy farms, ~~and milk plants, and frozen dessert plants~~ which may be performed by any agency of state or local government.

2. Pay for the regulation of milk and milk products, except as otherwise provided in s. ~~502.053~~ 502.032, through the General Revenue Fund.

(b) It is not the intent of the Legislature to limit the authority of any agency of state or local government to take immediate action incident to the production, processing, or distribution of milk, ~~and milk products, and frozen desserts~~ when such action is necessary to protect the public health.

Section 20. Subsections (1), (2), (6), and (7) of section 502.014, Florida Statutes, are 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, frozen desserts, and frozen dessert mix.~~

(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, frozen desserts, and frozen dessert mix.~~

(2)(a) The department shall conduct onsite inspections of dairy farms, ~~and milk plants, and frozen dessert plants~~ and collect test samples of milk, ~~and milk products, and frozen desserts~~ 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 Shippers 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 “Methods of Making Sanitation Ratings of Milk Shippers.” ~~Standard Methods for the Examination of Dairy Products.~~

(6) 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 Grade “A” pasteurized milk ordinance and other applicable federal requirements. The rules shall include, but are not limited to:

(a) Standards for milk, and milk products, and frozen desserts.

(b) Provisions for the production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of all milk, and milk products, frozen desserts, 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, frozen dessert plants, and milk plants.

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

(7) 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 or frozen desserts at any stage of production, processing, or distribution in cases of suspected hazard to public health.

Section 21. Section 502.032, Florida Statutes, is repealed.

Section 22. Section 502.053, Florida Statutes, is amended to read:

502.053 Permits and licenses; fees; requirements; exemptions; temporary permits.—

(1) PERMITS AND LICENSES.—

(a) Each Grade “A” milk plant, whether located in the state or outside the state, and each manufacturing milk plant, milk producer, milk hauler, milk hauling service, washing station operator, milk plant operator, milk distributor, single-service-container manufacturer, receiving station, and transfer station in the state shall apply to the department for a permit to operate. The application shall be on forms developed by the department.

(b) Each frozen dessert plant, whether located in the state or outside the state, that manufactures frozen desserts or other products defined in this chapter and offers these products for sale in this state must apply to the department for a permit to operate. The application must be submitted on forms prescribed by the department. All frozen dessert permits expire on June 30 of each year.

(c) Any person who tests milk or milk products for milkfat content by weight, volume, chemical, electronic, or other method when the result of such test is used as a basis for payment for the milk or milk products must apply to the department for a license. To qualify for a license, the applicant must demonstrate a sufficiency of knowledge, ability, and equipment to adequately perform milkfat tests. The license shall be issued for a period of 2 years after the date of first issuance upon application to the department on forms prescribed by the department.

~~(d)~~ Permits and licenses are nontransferable between persons or locations and are subject to suspension or revocation as provided in this chapter.

(2) FEES.—

(a) The initial application for a frozen dessert plant permit must be accompanied by a permit fee of \$200. The annual permit renewal fee is \$100.

(b) The department shall charge each applicant for a milkfat tester’s license a fee not to exceed \$125.

(3)~~(2)~~ REQUIREMENTS.—

(a) To obtain a frozen dessert plant permit or milkfat tester’s license, an applicant must satisfy all requirements that are defined by the department in rule and must agree to comply with the applicable provisions of this chapter and rules adopted under this chapter. The department shall mail a copy of the permit or license to the applicant to signify that administrative requirements have been met.

(b) All permitholders must maintain records of transactions concerning the procurement, production, and processing of milk and milk products as required in the Grade “A” pasteurized milk ordinance and grant department inspectors access to such records during all reasonable hours.

(c) In addition to the testing required in the Grade “A” pasteurized milk ordinance and its appendices, each milk plant operator in the state shall be

responsible for routine testing and inspection of raw milk shipped from outside the state prior to processing and shall notify the department when such testing and inspection indicate a violation of the standards contained in the Grade "A" pasteurized milk ordinance.

(d) Each frozen dessert plant permitholder must report monthly, quarterly, semiannually, or annually, as required by the department, the number of gallons of frozen dessert or frozen dessert mix sold or manufactured by the permitholder in this state.

(e) Each licensed milkfat tester shall keep records of milkfat tests conducted by him or her for a period of 1 year, and such records must be available for inspection by the department at all reasonable hours.

~~(4)~~(3) EXEMPTIONS.—

(a) The following persons shall be exempt from milk hauler permit requirements:

1. Milk producers who transport milk or milk products only from their own dairy farms.
2. Employees of a milk distributor or milk plant operator who possesses a valid permit.
3. Drivers of bulk milk tank trucks between locations who do not collect milk from farms.

(b) Grocery stores, restaurants, soda fountains, and similar establishments where milk or milk products are served or sold, but not processed, may be exempted from permit requirements.

(c) Frozen desserts retail establishments as defined in s. 502.012 are exempt from this chapter.

~~(5)~~(4) TEMPORARY PERMITS.—

(a) The department may issue a temporary permit for a period not exceeding 90 days to milk producers who have submitted an application to the department and passed a preliminary inspection as required in the Grade "A" pasteurized milk ordinance.

(b) During this 90-day period, the department shall act expeditiously to determine compliance with all relevant laws and, upon finding compliance, shall issue a permit pursuant to subsection (1).

Section 23. Section 502.054, Florida Statutes, is amended to read:

502.054 Inspection and reinspection.—

(1) The department shall establish a schedule for inspections which shall require routine inspections in accordance with the minimum requirements

contained in the Grade “A” pasteurized milk ordinance and more frequent inspections or reinspections for permitholders with serious or repeated violations.

(2) The department shall inspect frozen desserts and frozen dessert plants that handle and process mix and manufacture frozen desserts for wholesale. Inspections must be based on the frequency and severity of a violation. However, the department must comply with all federal requirements governing inspections.

Section 24. 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, pasteurized manufactured milk products, ice cream, and frozen desserts, and cheese made from pasteurized milk shall be sold at retail to the final consumer or to food service establishments as defined in chapter 381, food establishments as defined in chapter 500, or public food service establishments as defined in chapter 509. Cheese made from raw milk may also be sold at retail to the final consumer or to food service establishments as defined in chapter 381, food establishments as defined in chapter 500, or public food service establishments as defined in chapter 509 if the cheese is aged more than 60 days at a temperature above 35° F.

(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 which 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 Grade “A” 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 25. Subsections (1) and (2) of section 502.121, Florida Statutes, are amended to read:

502.121 Future dairy farms and milk and frozen dessert plants.—

(1) All future construction or extensive alteration of milk houses, milking barns, stables, parlors, transfer stations, and milk and frozen dessert plants regulated under this chapter must meet certain minimum specifications and requirements which the department shall establish by rule.

(2) Anyone who plans to construct a new milk house, milking barn, stable, parlor, transfer station, or milk or frozen dessert plant; or extensively alter any such existing facility; shall notify the department in writing of the intention to construct or alter, the date construction or alteration is to begin, and the legal description of the property for which the construction is planned.

Section 26. Subsection (1) of section 502.181, Florida Statutes, is amended to read:

502.181 Prohibited acts.—It is unlawful for any person in this state to:

(1) Engage in the business of producing, hauling, transferring, receiving, processing, packaging, or distributing milk, ~~or~~ milk products, or frozen desserts or operating a washing station, manufacturing single-service containers, manufacturing imitation or substitute milk or milk products, or testing for milkfat content, without first obtaining a permit or license from the department.

Section 27. Subsection (1) of section 502.231, Florida Statutes, is amended to read:

502.231 Penalty and injunction.—

(1) The department may enter an order imposing one or more of the following penalties against any person who violates any provision of the ~~provisions~~ of this chapter:

(a) Issuance of a warning letter that relates to the class of the violation.

(b) Imposition of an administrative fine not to exceed:

1. Ten thousand dollars per violation in the case of a frozen dessert licensee;

2. Ten percent of the license fee or \$100, whichever is greater, for failure to report the information described in s. 502.053(3)(d); or

3. One thousand dollars of not more than \$1,000 per occurrence for any other violation.

(e) When imposing a fine under this ~~paragraph~~ section, the department must consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the benefit to the violator, whether the violation was committed willfully, and the violator’s compliance record.

~~(c)(d)~~ Revocation or suspension of any permit issued by the department under this chapter.

Section 28. Section 502.232, Florida Statutes, is amended to read:

502.232 Local regulations superseded.—All special or local acts, general laws of limited application, county ordinances or resolutions, municipal ordinances or resolutions, and municipal charter provisions that authorize the regulation of milk or milk products, or frozen desserts for wholesale, are superseded by this chapter and the rules adopted pursuant to this chapter.

Section 29. Chapter 503, Florida Statutes, consisting of sections 503.011, 503.021, 503.031, 503.041, 503.0415, 503.051, 503.071, 503.081, and 503.091, is repealed.

Section 30. Subsection (5) of section 527.22, Florida Statutes, is amended to read:

527.22 Florida Propane Gas Education, Safety, and Research Council established; membership; duties and responsibilities.—

~~(5) Council members shall receive no compensation or honorarium for their services, and are authorized to receive only per diem and reimbursement for travel expenses as provided in s. 112.061.~~

Section 31. Subsection (3) of section 559.9221, Florida Statutes, is amended to read:

559.9221 Motor Vehicle Repair Advisory Council.—The Motor Vehicle Repair Advisory Council is created to advise and assist the department in carrying out this part.

~~(3) The members of the council shall receive no compensation for their services, except that they may receive per diem and travel expenses as provided in s. 112.061.~~

Section 32. Subsections (16), (19), and (28) of section 570.07, Florida Statutes, are amended, present subsection (41) is renumbered as subsection (42), and a new subsection (41) is added to that 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, sale, composition, formulation, wholesale and retail distribution, and analysis of commercial stock feeds and registration, labeling, inspection, and analysis of 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) Regulation of fertilizer, including its sale, composition, packaging, labeling, wholesale and retail distribution, and formulation, including nutrient content level and release rates; and
- (p)(e) 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.

(19) To protect the dairy interests of the state; and, to that end, it shall enforce those functions, powers, and duties given to it in chapter chapters 502 ~~and 503~~.

(28) For purposes of pollution control ~~and the prevention of wildfires~~ purposes, to regulate open burning connected with ~~rural~~ land-clearing, agricultural, or forestry operations, ~~except fires for cold or frost protection~~.

(41)(a) Except as otherwise provided in paragraph (b), to exercise the exclusive authority to regulate the sale, composition, packaging, labeling, wholesale and retail distribution, and formulation, including nutrient content level and release rates, of fertilizer under chapter 576. This subsection expressly preempts such regulation of fertilizer to the state.

(b) An ordinance regulating the sale of fertilizer adopted by a county or municipal government before July 1, 2011, is exempt from this subsection, and the county or municipal government may enforce such ordinance within its respective jurisdiction.

Section 33. Subsection (5) is added to section 576.181, Florida Statutes, to read:

576.181 Administration; rules; procedure.—

(5)(a) Except as otherwise provided in paragraph (b), the department has exclusive authority to regulate the sale, composition, packaging, labeling, wholesale and retail distribution, and formulation, including nutrient content level and release rates, of fertilizer. This subsection expressly preempts such regulation of fertilizer to the state.

(b) An ordinance regulating the sale of fertilizer adopted by a county or municipal government before July 1, 2011, is exempt from this subsection, and the county or municipal government may enforce such ordinance within its respective jurisdiction.

Section 34. Subsection (9) of section 570.0705, Florida Statutes, is amended to read:

570.0705 Advisory committees.—From time to time the commissioner may appoint any advisory committee to assist the department with its duties and responsibilities.

~~(9) Members of each advisory committee shall receive no compensation for their services, but shall be entitled to reimbursement for per diem and travel expenses as provided in s. 112.061.~~

Section 35. Section 570.074, Florida Statutes, is amended to read:

570.074 Department of Agriculture and Consumer Services; energy and water policy coordination.—~~The commissioner may create an Office of Energy and Water Coordination~~ under the supervision of a senior manager exempt under s. 110.205 in the Senior Management Service. The commissioner may designate the bureaus and positions in the various organizational divisions of the department that report to this office relating to any matter over which the department has jurisdiction in matters relating to energy and water policy affecting agriculture, application of such policies, and coordination of such matters with state and federal agencies.

Section 36. Section 570.18, Florida Statutes, is amended to read:

570.18 Organization of departmental work.—In the assignment of functions to the ~~12~~ divisions of the department created in s. 570.29, the department shall retain within the Division of Administration, in addition to executive functions, those powers and duties enumerated in s. 570.30. The department shall organize the work of the other ~~11~~ divisions in such a way as to secure maximum efficiency in the conduct of the department. The divisions created in s. 570.29 are solely to make possible the definite placing of responsibility. The department shall be conducted as a unit in which every employee, including each division director, is assigned a definite workload,

and there shall exist between division directors a spirit of cooperative effort to accomplish the work of the department.

Section 37. Subsection (2) of section 570.23, Florida Statutes, is amended to read:

570.23 State Agricultural Advisory Council.—

(2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS; COMPENSATION.—The meetings, powers and duties, procedures, and recordkeeping of the State Agricultural Advisory Council, ~~and per diem and reimbursement of expenses of council members,~~ shall be governed by the provisions of s. 570.0705 relating to advisory committees established within the department.

Section 38. Subsections (7) through (12) of section 570.29, Florida Statutes, are renumbered as subsections (6) through (11), respectively, and present subsection (6) is amended to read:

570.29 Departmental divisions.—The department shall include the following divisions:

~~(6)—Dairy Industry.~~

Section 39. Subsection (2) of section 570.38, Florida Statutes, is amended to read:

570.38 Animal Industry Technical Council.—

(2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS; COMPENSATION.—The meetings, powers and duties, procedures, and recordkeeping of the Animal Industry Technical Council, ~~and per diem and reimbursement of expenses of council members,~~ shall be governed by the provisions of s. 570.0705 relating to advisory committees established within the department.

Section 40. Paragraph (d) of subsection (3) of section 570.382, Florida Statutes, is amended to read:

570.382 Arabian horse racing; breeders' and stallion awards; Arabian Horse Council; horse registration fees; Florida Arabian Horse Racing Promotion Account.—

(3) ARABIAN HORSE COUNCIL.—

(d) Members of the council shall receive no compensation for their services, ~~except that they shall receive per diem and travel expenses as provided in s. 112.061 when actually engaged in the business of the council.~~

Section 41. Sections 570.40 and 570.41, Florida Statutes, are repealed.

Section 42. Subsection (2) of section 570.42, Florida Statutes, is amended to read:

570.42 Dairy Industry Technical Council.—

(2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS; COMPENSATION.—The meetings, powers and duties, procedures, and recordkeeping of the Dairy Industry Technical Council, ~~and per diem and reimbursement of expenses of council members,~~ shall be governed by the provisions of s. 570.0705 relating to advisory committees established within the department.

Section 43. Subsections (2) and (3) of section 570.50, Florida Statutes, are amended, and subsections (6) and (7) are added to that section, to read:

570.50 Division of Food Safety; powers and duties.—The duties of the Division of Food Safety include, but are not limited to:

(2) Conducting those general inspection activities relating to food and food products being processed, held, or offered for sale in this state and enforcing those provisions of chapters 500, 501, 502, ~~503~~, 531, 583, 585, 586, and 601 relating to foods as authorized by the department.

(3) Analyzing samples of foods offered for sale in this state as required under chapters 500, 501, 502, ~~503~~, 585, 586, and 601.

(6) Inspecting dairy farms of the state, enforcing those provisions of chapter 502 that are authorized by the department and related to the supervision of milking operations, and enforcing rules adopted under such provisions.

(7) Inspecting milk plants, milk product plants, and plants engaged in the manufacture and distribution of frozen desserts and frozen dessert mixes; analyzing and testing samples of milk, milk products, frozen desserts, and frozen dessert mixes collected by the division; and enforcing those provisions of chapter 502 that are authorized by the department.

Section 44. Subsection (2) of section 570.51, Florida Statutes, is amended to read:

570.51 Director; qualifications; duties.—

(2) The director shall supervise, direct, and coordinate the activities of the division and enforce the provisions of chapters 500, 501, 502, ~~503~~, 531, 583, 585, and 601 and any other chapter necessary to carry out the responsibilities of the division.

Section 45. Subsection (2) of section 570.543, Florida Statutes, is amended to read:

570.543 Florida Consumers' Council.—The Florida Consumers' Council in the department is created to advise and assist the department in carrying out its duties.

(2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS; COMPENSATION.—The meetings, powers and duties, procedures, and recordkeeping of the Florida Consumers' Council, ~~and per diem and reimbursement of expenses of council members,~~ shall be governed by the provisions of s. 570.0705 relating to advisory committees established within the department. The council members or chair may call no more than two meetings.

Section 46. Subsection (3) of section 570.954, Florida Statutes, is amended to read:

570.954 Farm-to-fuel initiative.—

~~(3) The department shall coordinate with and solicit the expertise of the state energy office within the Department of Environmental Protection when developing and implementing this initiative.~~

Section 47. Subsection (2) of section 571.28, Florida Statutes, is amended to read:

571.28 Florida Agricultural Promotional Campaign Advisory Council.

(2) MEETINGS; POWERS AND DUTIES; PROCEDURES; RECORDS; COMPENSATION.—The meetings, powers and duties, procedures, and recordkeeping of the Florida Agricultural Promotional Campaign Advisory Council, ~~and per diem and reimbursement of expenses of council members,~~ shall be governed by the provisions of s. 570.0705 relating to advisory committees established within the department.

Section 48. Subsection (6) of section 573.112, Florida Statutes, is amended to read:

573.112 Advisory council.—

(6) No member or alternate member of the council shall receive a salary, ~~but shall be reimbursed for travel expenses while on council business as provided in s. 112.061.~~ The department may employ necessary personnel, including professional and technical services personnel, and fix their compensation and terms of employment and may incur expenses to be paid from moneys collected as herein provided.

Section 49. Subsection (3) of section 576.091, Florida Statutes, is amended to read:

576.091 Fertilizer Technical Council.—

(3) ~~POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS; REIMBURSEMENTS.~~—The meetings, powers and duties, procedures, and recordkeeping, ~~and reimbursement of expenses of members and alternate members~~ of the council shall be in accordance with the provisions of s. 570.0705 relating to advisory committees established within the department.

Section 50. Subsection (2) of section 580.151, Florida Statutes, is amended to read:

580.151 Commercial Feed Technical Council.—

(2) ~~POWERS AND DUTIES; PROCEDURES; RECORDS; COMPENSATION.~~—The meetings, powers and duties, procedures, and recordkeeping of the Commercial Feed Technical Council, ~~and per diem and reimbursement of expenses of council members,~~ shall be governed by the provisions of s. 570.0705 relating to advisory committees established within the department.

Section 51. Subsection (2) of section 581.186, Florida Statutes, is amended to read:

581.186 Endangered Plant Advisory Council; organization; meetings; powers and duties.—

(2) ~~POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS; COMPENSATION.~~—The meetings, powers and duties, procedures, and recordkeeping of the Endangered Plant Advisory Council, ~~and per diem and reimbursement of expenses of council members,~~ shall be governed by the provisions of s. 570.0705 relating to advisory committees established within the department.

Section 52. Subsection (3) of section 582.30, Florida Statutes, is amended to read:

582.30 Discontinuance of districts; referendum; commissioner's authority.—

(3) In the alternative, upon review and recommendation of the Soil and Water Conservation Council regarding the continued viability of a district, the Commissioner of Agriculture may dissolve or discontinue such district if the commissioner certifies that the continued operation of the district is not administratively practicable and feasible. If a district has failed to comply with any of the audit and financial reporting requirements of chapter 189, the commissioner, after review and confirmation by the department's inspector general, may certify dissolution or discontinuance of such district without prior review and recommendation of the Soil and Water Conservation Council. Notice of such proposed certification of dissolution or discontinuance shall be published once a week for 2 weeks in a newspaper of general circulation within the county or counties wherein the district is located, stating the name of the district and a general description of the territory included in the district, and requiring that any objections to the proposed dissolution or any claims against the assets of the district must be

filed with the department clerk not later than 60 days following the date of last publication.

Section 53. Subsection (3) of section 586.161, Florida Statutes, is amended to read:

586.161 Honeybee Technical Council.—

(3) MEETINGS; POWERS AND DUTIES; PROCEDURES; RECORDS; COMPENSATION.—The meetings, powers and duties, procedures, and recordkeeping of the Honeybee Technical Council, ~~and per diem and reimbursement of expenses of council members,~~ shall be governed by the provisions of s. 570.0705 relating to advisory committees established within the department.

Section 54. Section 590.015, Florida Statutes, is amended to read:

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

(1) “Broadcast burning” means the burning of agricultural or natural vegetation by allowing fire to move across a predetermined area of land. The term does not include the burning of vegetative debris that is piled or stacked.

~~(2)~~(4) “Division” means the Division of Forestry of the Department of Agriculture and Consumer Services.

~~(3)~~(2) “Fire management services” means presuppression fireline plowing, prescribed burning assistance, contract prescribed burning, prescribed and wildfire management training, and other activities associated with prevention, detection, and suppression of wildfires.

~~(4)~~(3) “Fuel reduction” means the application of techniques that reduce vegetative fuels, and may include prescribed burning, manual and mechanical clearing, and the use of herbicides.

(5) “Open burning” means any outdoor fire or open combustion of material that produces visible emissions.

~~(6)~~(4) “Wildfire” means any vegetative fire that threatens to destroy life, property, or natural resources.

~~(7)~~(5) “Wild land” means any public or private managed or unmanaged forest, urban/interface, pasture or range land, recreation lands, or any other land at risk of wildfire.

Section 55. Paragraph (d) of subsection (1) and subsection (4) of section 590.02, Florida Statutes, are amended, and subsections (9) and (10) are added to that section, 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:

(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, ~~forest operations administrators~~, 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;

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

(b) Notwithstanding s. 553.80(1), the department shall exclusively enforce the Florida Building Code as it pertains to wildfire and law enforcement facilities under the jurisdiction of the department.

(9)(a) Notwithstanding ss. 273.055 and 287.16, the department may retain, transfer, warehouse, bid, destroy, scrap, or otherwise dispose of surplus equipment and vehicles that are used for wildland firefighting.

(b) All money received from the disposition of state-owned equipment and vehicles that are used for wildland firefighting shall be retained by the department. Money received pursuant to this section is appropriated for and may be disbursed for the acquisition of exchange and surplus equipment used for wildland firefighting, and for all necessary operating expenditures related to such equipment, in the same fiscal year and the fiscal year following the disposition. The department shall maintain records of the accounts into which the money is deposited.

(10)(a) The division has exclusive authority to require and issue authorizations for broadcast burning and agricultural and silvicultural pile burning. An agency, commission, department, county, municipality, or other political subdivision of the state may not adopt laws, regulations, rules, or policies pertaining to broadcast burning or agricultural and silvicultural pile burning unless an emergency order is declared in accordance with s. 252.38(3).

(b) The division may delegate to a county or municipality its authority, as delegated by the Department of Environmental Protection pursuant to ss. 403.061(28) and 403.081, to require and issue authorizations for the burning of yard trash and debris from land clearing operations in accordance with s. 590.125(6).

Section 56. Section 590.125, Florida Statutes, is amended to read:

590.125 Open burning authorized by the division.—

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

(a) ~~“Certified pile burner” means an individual who successfully completes the division’s pile burning certification program and possesses a valid pile burner certification number. “Prescribed burning” means the controlled application of fire in accordance with a written prescription for vegetative fuels under specified environmental conditions while following appropriate precautionary measures that ensure that the fire is confined to a predetermined area to accomplish the planned fire or land-management objectives.~~

(b) “Certified prescribed burn manager” means an individual who successfully completes the certified prescribed burning certification program of the division and possesses a valid certification number.

~~(c)(d)~~ “Extinguished” means that ~~no spreading flame for:~~

1. Wildland Wild land burning or certified prescribed burning, and no spreading flames visible flame, smoke, or emissions for vegetative land-clearing debris burning, exist.

2. Vegetative land-clearing debris burning or pile burning, no visible flames exist.

3. Vegetative land-clearing debris burning or pile burning in an area designated as smoke sensitive by the division, no visible flames, smoke, or emissions exist.

~~(d) “Land-clearing operation” means the uprooting or clearing of vegetation in connection with the construction of buildings and rights-of-way, land development, and mineral operations. The term does not include the clearing of yard trash.~~

~~(e) “Pile burning” means the burning of silvicultural, agricultural, or land-clearing and tree-cutting debris originating onsite, which is stacked together in a round or linear fashion, including, but not limited to, a windrow.~~

(f) “Prescribed burning” means the controlled application of fire by broadcast burning in accordance with a written prescription for vegetative fuels under specified environmental conditions, while following appropriate precautionary measures that ensure that the fire is confined to a predetermined area to accomplish the planned fire or land-management objectives.

~~(g)(e)~~ “Prescription” means a written plan establishing the criteria necessary for starting, controlling, and extinguishing a prescribed burn.

(h) “Yard trash” means vegetative matter resulting from landscaping and yard maintenance operations and other such routine property cleanup activities. The term includes materials such as leaves, shrub trimmings, grass clippings, brush, and palm fronds.

(2) NONCERTIFIED BURNING.—

(a) Persons may be authorized to burn wild land or vegetative land-clearing debris in accordance with this subsection if:

1. There is specific consent of the landowner or his or her designee;
2. Authorization has been obtained from the division or its designated agent before starting the burn;
3. There are adequate firebreaks at the burn site and sufficient personnel and firefighting equipment for the control of the fire;
4. The fire remains within the boundary of the authorized area;
5. An authorized person ~~Someone~~ is present at the burn site until the fire is extinguished;
6. The division does not cancel the authorization; and
7. The division determines that air quality and fire danger are favorable for safe burning.

(b) A person who burns wild land or vegetative land-clearing debris in a manner that violates any requirement of this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

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

(a) The application of prescribed burning is a land management tool that benefits the safety of the public, the environment, and the economy of the state. The Legislature finds that:

1. Prescribed burning reduces vegetative fuels within wild land areas. Reduction of the fuel load reduces the risk and severity of wildfire, thereby reducing the threat of loss of life and property, particularly in urban areas.

2. Most of Florida’s natural communities require periodic fire for maintenance of their ecological integrity. Prescribed burning is essential to the perpetuation, restoration, and management of many plant and animal communities. Significant loss of the state’s biological diversity will occur if fire is excluded from fire-dependent systems.

3. Forestland and rangeland constitute significant economic, biological, and aesthetic resources of statewide importance. Prescribed burning on

forestland prepares sites for reforestation, removes undesirable competing vegetation, expedites nutrient cycling, and controls or eliminates certain forest pathogens. On rangeland, prescribed burning improves the quality and quantity of herbaceous vegetation necessary for livestock production.

4. The state purchased hundreds of thousands of acres of land for parks, preserves, wildlife management areas, forests, and other public purposes. The use of prescribed burning for management of public lands is essential to maintain the specific resource values for which these lands were acquired.

5. A public education program is necessary to make citizens and visitors aware of the public safety, resource, and economic benefits of prescribed burning.

6. Proper training in the use of prescribed burning is necessary to ensure maximum benefits and protection for the public.

7. As Florida's population continues to grow, pressures from liability issues and nuisance complaints inhibit the use of prescribed burning. Therefore, the division is urged to maximize the opportunities for prescribed burning conducted during its daytime and nighttime authorization process.

(b) Certified prescribed burning pertains only to broadcast burning for purposes of silviculture, wildland fire hazard reduction, wildlife management, ecological maintenance and restoration, and range and pasture management. It must be conducted in accordance with this subsection and:

1. May 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.

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

(d) Any certified burner who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(e) The division shall adopt rules for the use of prescribed burning and for certifying and decertifying certified prescribed burn managers based on their past experience, training, and record of compliance with this section.

(4) CERTIFIED PILE BURNING.—

(a) Certified pile burning pertains to the disposal of piled, naturally occurring debris from an agricultural, silvicultural, or temporary land-clearing operation. A land-clearing operation is temporary if it operates for 6 months or less. Certified pile burning must be conducted in accordance with the following:

1. A certified pile burner must ensure, before ignition, that the piles are properly placed and that the content of the piles is conducive to efficient burning.

2. A certified pile burner must ensure that the piles are properly extinguished no later than 1 hour after sunset. If the burn is conducted in an area designated by the division as smoke sensitive, a certified pile burner must ensure that the piles are properly extinguished at least 1 hour before sunset.

3. A written pile burning plan must be prepared before receiving authorization from the division to burn.

4. The specific consent of the landowner or his or her agent must be obtained before requesting authorization to burn.

5. An authorization to burn must be obtained from the division or its designated agent before igniting the burn.

6. There must be adequate firebreaks and sufficient personnel and firefighting equipment at the burn site to control the fire.

(b) If a burn is conducted in accordance with paragraph (a), the property owner and his or her agent are not liable under s. 590.13 for damage or injury caused by the fire or resulting smoke, and are not in violation of subsection (2), unless gross negligence is proven.

(c) A certified pile burner who violates this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(d) The division shall adopt rules regulating certified pile burning. The rules shall include procedures and criteria for certifying and decertifying certified pile burn managers based on past experience, training, and record of compliance with this section.

(5)(4) WILDFIRE HAZARD REDUCTION TREATMENT BY THE DIVISION.—The division may conduct fuel reduction initiatives, including, but not limited to, burning and mechanical and chemical treatment, on 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 to the affected local governmental entity.

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

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

(d) Consider any landowner objections to the fuels treatment 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.

(6) DIVISION APPROVAL OF LOCAL GOVERNMENT OPEN BURNING AUTHORIZATION PROGRAMS.—

(a) A county or municipality may exercise the division’s authority, if delegated by the division under this subsection, to issue authorizations for the burning of yard trash or debris from land-clearing operations. A county’s or municipality’s existing or proposed open burning authorization program must:

1. Be approved by the division. The division may not approve a program if it fails to meet the requirements of subsections (2) and (4) and any rules adopted under those subsections.

2. Provide by ordinance or local law the requirements for obtaining and performing a burn authorization that complies with subsections (2) and (4) and any rules adopted under those subsections.

3. Provide for the enforcement of the program's requirements.

4. Provide financial, personnel, and other resources needed to carry out the program.

(b) If the division determines that a county's or municipality's open burning authorization program does not comply with subsections (2) and (4) and any rules adopted under those subsections, the division shall require the county or municipality to take necessary corrective actions within 90 days after receiving notice from the division of its determination.

1. If the county or municipality fails to take the necessary corrective actions within the required period, the division shall resume administration of the open burning authorization program in the county or municipality and the county or municipality shall cease administration of its program.

2. Each county and municipality administering an open burning authorization program must cooperate with and assist the division in carrying out the division's powers, duties, and functions.

3. A person who violates the requirements of a county's or municipality's open burning authorization program, as provided by ordinance or local law enacted pursuant to this subsection, commits a violation of this chapter, punishable as provided in s. 590.14.

~~(7)~~(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 57. Section 590.14, Florida Statutes, is amended to read:

590.14 Notice of violation; penalties; legislative intent.—

(1) If a division employee determines that a person has violated chapter 589, ~~or this chapter, or any rule adopted by the division to administer provisions of law conferring duties upon the division, the division employee he or she~~ may issue a notice of violation indicating the statute or rule violated. This notice will be filed with the division and a copy forwarded to the appropriate law enforcement entity for further action if necessary.

(2) In addition to any penalties provided by law, any person who causes a wildfire or permits any authorized fire to escape the boundaries of the authorization or to burn past the time of the authorization is liable for the payment of all reasonable costs and expenses incurred in suppressing the fire or \$150, whichever is greater. All costs and expenses incurred by the division shall be payable to the division. When such costs and expenses are not paid within 30 days after demand, the division may take proper legal proceedings

for the collection of the costs and expenses. Those costs incurred by an agency acting at the division’s direction are recoverable by that agency.

(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 or violation of any rule adopted by the division to administer provisions of law conferring duties upon the division. The fine shall be based upon the degree of damage, the 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.

(4) A person commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, if the person:

(a) Fails to comply with any rule or order adopted by the division to administer provisions of law conferring duties upon the division; or

(b) Knowingly makes any false statement or representation in any application, record, plan, or other document required by this chapter or any rules adopted under this chapter.

(5) It is the intent of the Legislature that a penalty imposed by a court under subsection (4) be of a severity that ensures immediate and continued compliance with this section.

~~(6)~~(4) The penalties provided in this section shall extend to both the actual violator and the person or persons, firm, or corporation causing, directing, or permitting the violation.

Section 58. Subsection (4) of section 597.005, Florida Statutes, is amended to read:

597.005 Aquaculture Review Council.—

~~(4) EXPENSES; PER DIEM.—Members of the council shall receive expenses and per diem for travel, including attendance at meetings, as allowed state officers and employees pursuant to s. 112.061.~~

Section 59. Subsection (2) of section 599.002, Florida Statutes, is amended to read:

599.002 Viticulture Advisory Council.—

(2) The meetings, powers and duties, procedures, and recordkeeping of the Viticulture Advisory Council, ~~and per diem and reimbursement of expenses of council members,~~ shall be governed by the provisions of s. 570.0705 relating to advisory committees established within the department.

Section 60. Subsection (4) is added to section 616.17, Florida Statutes, to read:

616.17 Minimum exhibits.—

(4) An authority or fair association as defined in this chapter that provides any of the exhibits set forth in subsection (1) or other exhibits or concessions, whether such exhibits or concessions are provided directly or through an agreement with a third party, is not subject to criminal penalties or civil damages arising out of the personal injury or death of any person, or property damage, resulting from such exhibits or concessions. This subsection does not apply if the personal injury, death, or property damage was due to an act or omission committed by the authority or fair association in bad faith, with malicious purpose, or with wanton and willful disregard of human rights, safety, or property. This subsection does not apply to third parties providing exhibits or concessions.

Section 61. Paragraph (a) of subsection (1) and subsection (3) of section 616.252, Florida Statutes, are amended to read:

616.252 Florida State Fair Authority; membership; number, terms, compensation.—

(1)(a) The authority shall be composed of ~~22~~ 21 members. The Commissioner of Agriculture, or her or his designee, shall serve as a voting member. There shall also be a member who is the member of the Board of County Commissioners of Hillsborough County representing the county commission district in which the Florida State Fairgrounds is located, who shall serve as a voting member. There shall also be an appointed youth member who is an active member of the Florida Future Farmers of America or a 4-H Club, who shall serve as a nonvoting member. The Commissioner of Agriculture shall appoint each other member of the authority. Each member appointed by the Commissioner of Agriculture shall serve at the pleasure of the Commissioner of Agriculture. The term of each member appointed by the Commissioner of Agriculture shall be 4 years, but the term of the nonvoting youth member shall be for 1 year except, to provide staggered terms, 9 of the members shall be initially appointed for a 2-year term and 10 of the members shall be initially appointed for a 3-year term. Members may be appointed for more than one term. Any vacancy shall be filled for the remainder of the unexpired term pursuant to the method provided in this section for appointment. Six of the members may be from Hillsborough County. The Commissioner of Agriculture shall appoint and set the compensation of an executive director. The executive director shall serve at the pleasure of the Commissioner of Agriculture.

(3) Members of the authority ~~are shall~~ not be entitled to compensation for their services as members and may not, but shall be reimbursed for travel expenses. Except for the nonvoting youth member, each member as provided in s. 112.061 and may be compensated for any special or full-time service performed in the authority's ~~its~~ behalf as officers or agents of the authority.

Section 62. Paragraph (c) of subsection (2) of section 812.014, Florida Statutes, is amended to read:

812.014 Theft.—

(2)

(c) It is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property stolen is:

1. Valued at \$300 or more, but less than \$5,000.
2. Valued at \$5,000 or more, but less than \$10,000.
3. Valued at \$10,000 or more, but less than \$20,000.
4. A will, codicil, or other testamentary instrument.
5. A firearm.
6. A motor vehicle, except as provided in paragraph (a).
7. Any commercially farmed animal, including any animal of the equine, bovine, or swine class; or other grazing animal; a bee colony of a registered beekeeper; and ~~including~~ aquaculture species raised at a certified aquaculture facility. If the property stolen is aquaculture species raised at a certified aquaculture facility, then a \$10,000 fine shall be imposed.
8. Any fire extinguisher.
9. Any amount of citrus fruit consisting of 2,000 or more individual pieces of fruit.
10. Taken from a designated construction site identified by the posting of a sign as provided for in s. 810.09(2)(d).
11. Any stop sign.
12. Anhydrous ammonia.

However, if the property is stolen within a county that is subject to a state of emergency declared by the Governor under chapter 252, the property is stolen after the declaration of emergency is made, and the perpetration of the theft is facilitated by conditions arising from the emergency, the offender commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property is valued at \$5,000 or more, but less than \$10,000, as provided under subparagraph 2., or if the property is valued at \$10,000 or more, but less than \$20,000, as provided under subparagraph 3. As used in this paragraph, the term “conditions arising from the emergency” means civil unrest, power outages, curfews, voluntary or mandatory evacuations, or a reduction in the presence of or the response time for first responders or homeland security personnel. For purposes of sentencing under chapter 921, a felony offense that is reclassified under this paragraph is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

Section 63. Paragraphs (f) and (g) of subsection (1) of section 812.015, Florida Statutes, are amended to read:

812.015 Retail and farm theft; transit fare evasion; mandatory fine; alternative punishment; detention and arrest; exemption from liability for false arrest; resisting arrest; penalties.—

(1) As used in this section:

(f) “Farmer” means a person who is engaging in the growing or producing of farm produce, milk products, honey, eggs, or meat, either part time or full time, for personal consumption or for sale and who is the owner or lessee of the land or a person designated in writing by the owner or lessee to act as her or his agent. No person defined as a farm labor contractor pursuant to s. 450.28 shall be designated to act as an agent for purposes of this section.

(g) “Farm theft” means the unlawful taking possession of any items that are grown or produced on land owned, rented, or leased by another person. The term includes the unlawful taking possession of equipment and associated materials used to grow or produce farm products as defined in s. 823.14(3)(c).

Section 64. (1) The Division of Forestry of the Department of Agriculture and Consumer Services is renamed the “Florida Forest Service.”

(2) The Legislature recognizes that there is a need to conform the Florida Statutes to the organizational changes in this act and that there may be a need to resolve apparent conflicts with any other legislation that has been or may be enacted during the 2011 Regular Session or an extension thereof. Therefore, in the interim between this act becoming a law and the 2012 Regular Session of the Legislature or an earlier special session addressing this issue, the Division of Statutory Revision shall provide the relevant substantive committees of the Senate and the House of Representatives with assistance, upon request, to enable such committees to prepare draft legislation to conform the Florida Statutes and any legislation enacted during 2011 to the provisions of this act.

Section 65. Paragraph (h) of 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:

(h) Florida Forest Service Forestry.

Section 66. Subsections (4) and (11) of section 261.03, Florida Statutes, are amended to read:

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

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

(11) “Trust fund” means the Incidental Trust Fund of the Florida Forest Service Division of Forestry of the Department of Agriculture and Consumer Services.

Section 67. Subsection (8) of section 570.29, Florida Statutes, is amended to read:

570.29 Departmental divisions.—The department shall include the following divisions:

(8) Florida Forest Service Forestry.

Section 68. Section 570.548, Florida Statutes, is amended to read:

570.548 Florida Forest Service Division of Forestry; powers and duties. The duties of the Florida Forest Service Division of Forestry include, but are not limited to, administering and enforcing those powers and responsibilities of the Florida Forest Service division prescribed in chapters 589, 590, and 591 and the rules adopted under those chapters pursuant thereto and in other forest fire, forest protection, and forest management laws of this state.

Section 69. Section 570.549, Florida Statutes, is amended to read:

570.549 Director; duties.—

(1) The director of the Florida Forest Service Division of Forestry shall be appointed by the commissioner and shall serve at the commissioner’s pleasure.

(2) ~~It shall be the duty of~~ The director shall ~~of this division to~~ direct and supervise the overall operation of the Florida Forest Service division and to exercise such other powers and duties as authorized by the department.

Section 70. Subsection (1) of section 570.903, Florida Statutes, is amended to read:

570.903 Direct-support organization.—

(1) When the Legislature authorizes the establishment of a direct-support organization to provide assistance for the museums, the Florida Agriculture in the Classroom Program, the Florida State Collection of Arthropods, the Friends of the Florida State Forests Program of the Florida Forest Service Division of Forestry, and the Forestry Arson Alert Program, and other programs of the department, the following provisions shall govern the creation, use, powers, and duties of the direct-support organization:—

(a) The department shall enter into a memorandum or letter of agreement with the direct-support organization, which shall specify the approval of the department, the powers and duties of the direct-support organization, and rules with which the direct-support organization must shall comply.

(b) The department may permit, without charge, appropriate use of property, facilities, and personnel of the department by a direct-support organization, subject to ~~the provisions of ss. 570.902 and 570.903.~~ The use shall be directly in keeping with the approved purposes of the direct-support organization and may shall not be made at times or places that would unreasonably interfere with opportunities for the general public to use department facilities for established purposes.

(c) The department shall prescribe by contract or by rule conditions with which a direct-support organization must shall comply in order to use property, facilities, or personnel of the department or museum. Such rules shall provide for budget and audit review and oversight by the department.

(d) The department may shall not permit the use of property, facilities, or personnel of the museum, department, or designated program by a direct-support organization ~~that~~ which does not provide equal employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.

Section 71. Subsection (1) of section 590.015, Florida Statutes, is amended to read:

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

(1) “Division” means the ~~Florida Forest Service Division of Forestry of the Department of Agriculture and Consumer Services.~~

Section 72. The sum of \$744,000 in nonrecurring funds is appropriated to the Department of Agriculture and Consumer Services from the Florida Forever Trust Fund for the 2011-2012 fiscal year in the Fixed Capital Outlay Agency Managed-Land Management appropriation category pursuant to s. 259.105(3)(f), Florida Statutes.

Section 73. This act shall take effect July 1, 2011.

Approved by the Governor June 21, 2011.

Filed in Office Secretary of State June 21, 2011.