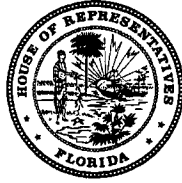




Agriculture & Natural Resources Appropriations Subcommittee

Wednesday, January 24, 2018
9:00 AM – 11:00 AM
Morris Hall

Meeting Packet



The Florida House of Representatives
Appropriations Committee
Agriculture & Natural Resources Appropriations Subcommittee

Richard Corcoran
Speaker

Ben Albritton
Chair

AGENDA

Wednesday, January 24, 2018
Morris Hall
9:00 a.m. – 11:00 a.m.

- i. Call to Order/Roll Call
- ii. Opening Remarks by Chair Albritton
- iii. Consideration of:
 - a. PCB ANR 18-01
- iv. Consideration of Bill:
 - a. CS/HB 553
- v. Chair's Budget Proposal for FY 2018-19
- vi. Closing Remarks and Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 553 Department of Agriculture and Consumer Services
SPONSOR(S): Agriculture & Property Rights Subcommittee; Raburn
TIED BILLS: IDEN./SIM. **BILLS:** SB 740

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Property Rights Subcommittee	14 Y, 0 N, As CS	Thompson	Smith
2) Agriculture & Natural Resources Appropriations Subcommittee		White <i>CCW</i>	Pigott <i>SP</i>
3) Commerce Committee			

SUMMARY ANALYSIS

The bill modifies several agricultural, consumer service, and licensing activities under the jurisdiction of the Florida Department of Agriculture and Consumer Services (DACS). Relating to agriculture and consumer services, the bill:

- Provides that screen enclosed structures used in citrus production for pest exclusion, when consistent with DACS adopted best management practices, have no separately assessable value for purposes of ad valorem taxation;
- Transfers Apalachicola Bay Oyster Harvesting license administration from DACS to the City of Apalachicola;
- Prohibits commingling of contributions with noncharitable funds by charitable organizations;
- Allows for electronic submission of water vending-machine application forms to DACS;
- Expands consumer protections provided under the Do Not Call statute;
- Consolidates the definition of "antifreeze," extends antifreeze permitting up to 24 months, eliminates phased out antifreeze product affidavits and DACS antifreeze testing requirements;
- Allows for the lawful seizure of petroleum "skimming devices" by DACS;
- Extends brake fluid permitting up to 24-months, eliminates phased-out brake fluid product affidavits, and revises DACS brake fluid testing requirements;
- Revises the chapter of law governing the sale of liquefied petroleum (LP) gas;
- Extends the expiration date for the weights and measures permitting statutes by five years;
- Removes the Nathan Mayo Building bulletin board marketing order posting requirements;
- Updates and reorganizes the Florida Seed Law to align with federal provisions; and
- Authorizes the Florida Forest Service to pay initial commercial driver license exam fees for certain employees.

Relating to licensing, the bill:

- Removes the requirement that payments of pesticide registration fees be submitted electronically;
- Allows military veterans to utilize military firearms instructor status when applying for professional firearms instructor Class "K" licensure;
- Requires DACS to expedite efforts to acquire criminal history information for concealed weapon or firearm license applicants;
- Replaces the statement under oath with a notarized statement, when replacing a lost or destroyed concealed weapon or firearm license; and
- Authorizes tax collectors to print and deliver a replacement for a lost or destroyed concealed weapon or firearm license, revises the concealed weapon or firearm license fees that a tax collector is required to collect, allows a tax collector to collect and retain convenience fees for a concealed weapon or firearm license, and authorizes tax collectors to provide concealed weapon or firearm licensure fingerprinting and photographing services.

The bill is expected to have a negative, but insignificant, fiscal impact on the Department of Agriculture and Consumer Services that can be absorbed within existing resources. See Fiscal Analysis & Economic Impact Statement section for discussion.

The effective date of the bill is July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The mission of DACS is to safeguard the public and support Florida's agricultural economy by:

- Ensuring the safety and wholesomeness of food and other consumer products through inspection and testing programs;
- Protecting consumers from unfair and deceptive business practices and providing consumer information;
- Assisting Florida's farmers and agricultural industries with the production and promotion of agricultural products; and
- Conserving and protecting the state's agricultural and natural resources by reducing wildfires, promoting environmentally safe agricultural practices, and managing public lands.¹

The Division of Consumer Services is the state's clearinghouse for consumer complaints, information and protection. The division regulates various businesses, such as charitable organizations and telemarketers. In addition, the division protects consumers and businesses from unfair and unsafe business practices across a wide range of market sectors, including antifreeze, brake fluid, gasoline, liquefied petroleum (LP) gas, pesticides, water vending machines, and weighing and measuring devices.²

The Division of Licensing administers Florida's concealed weapon or firearm licensing program and oversees Florida's private investigative, private security, and recovery services industries. This includes licensing, enforcing compliance standards, and ensuring public protection from unethical business practices and unlicensed activity.³ In 2017, the division regulated almost 2 million professional licenses in the state of Florida, including approximately 1.8 million concealed weapon or firearm licenses.⁴

The bill modifies several agricultural, consumer services, and licensing activities under DACS's jurisdiction.

Citrus Protection Structures (Section 1)

Present Situation

Florida's "greenbelt law," allows properties classified as bona fide agricultural operations to be taxed according to the "use" value of the agricultural operation, rather than the development value.⁵ Generally, tax assessments for qualifying lands are lower than tax assessments for other uses. For purposes of the income methodology approach to assessment of property used for agricultural purposes, certain structures that are physically attached to the land are considered a part of the average yields per acre and have no separately assessable contributory (taxable) value. These structures include the following:

- Irrigation systems, including pumps and motors;

¹ Office of Program Policy Analysis & Government Accountability (OPPAGA) Government Program Summaries (GPS), *Department of Agriculture and Consumer Services*, <http://www.oppaga.state.fl.us/profiles/4122> (last visited Jan. 19, 2018).

² The Florida Department of Agriculture and Consumer Services, <http://www.freshfromflorida.com/Divisions-Offices/Consumer-Services> (last visited Jan. 19, 2018).

³ The Florida Department of Agriculture and Consumer Services, <http://www.freshfromflorida.com/Divisions-Offices/Licensing> (last visited Jan. 19, 2018).

⁴ The Florida Department of Agriculture and Consumer Services Division of Licensing, *Number of Licensees by Type As of October 31, 2017*, available at: http://www.freshfromflorida.com/content/download/7471/118627/Number_of_Licensees_By_Type.pdf (last visited Jan. 19, 2018).

⁵ s. 196.461, F.S.

- Litter containment structures located on producing poultry farms and animal waste nutrient containment structures located on producing dairy farms; and
- Structures or improvements used in horticultural production for frost or freeze protection, which are consistent with the interim measures or best management practices adopted by DACS.⁶

Effect of Proposed Changes

The bill provides that screen enclosed structures used in citrus production for pest exclusion, when consistent with DACS adopted best management practices, have no separate assessable value for purposes of ad valorem taxation. These structures are considered part of the average yields per acre, and thus have no separate assessable contributory value.

Apalachicola Bay Oyster Harvesting License (Section 2)

Present Situation

Current law sets forth requirements for the Apalachicola Bay oyster harvesting license (license).⁷ The license first became law in 1989.⁸ The license is administered by DACS and is required for persons who harvest commercial quantities of oysters from Apalachicola Bay.⁹

Proceeds from license fees are deposited in the General Inspection Trust Fund and, less reasonable administrative costs, used or distributed by DACS for the following purposes in Apalachicola Bay:

- Relaying and transplanting live oysters.
- Shell planting to construct or rehabilitate oyster bars.
- Education programs for licensed oyster harvesters on oyster biology, aquaculture, boating and water safety, sanitation, resource conservation, small business management, marketing, and other relevant subjects.
- Research directed toward the enhancement of oyster production in the bay and the water management needs of the bay.¹⁰

Effect of Proposed Changes

The bill transfers the license administrative responsibilities from DACS to the City of Apalachicola. Specifically, the bill requires the City of Apalachicola, instead of DACS, to issue the license and collect, deposit, and distribute the license fees. The bill requires the proceeds to be deposited into a trust account, instead of the General Inspection Trust Fund, and, less reasonable administrative costs, used or distributed by the City of Apalachicola for the purposes listed in current law. However, instead of using the funds for the purpose of relaying and transplanting live oysters, the bill requires the City of Apalachicola to use or distribute the funds for an Apalachicola Bay oyster shell recycling program.

According to DACS, transferring the license administrative responsibilities from DACS to the City of Apalachicola will eliminate departmental processing expenses and allow the City of Apalachicola to more directly control the allocation of funds for restoration activities.¹¹

⁶ s. 196.461(6)(c), F.S.

⁷ s. 379.361(5), F.S.

⁸ Ch. 89-175, Laws of Fla.

⁹ According to the Florida Department of Agriculture and Consumer Services, Apalachicola Bay Oyster Harvesting License webpage: Apalachicola Bay refers to all waters within St. George Sound, East Bay, Apalachicola Bay, St. Vincent Sound in Franklin County, and Indian Lagoon in Gulf County, including canals, channels, rivers and creeks. This information is available at: <http://www.freshfromflorida.com/Business-Services/Aquaculture/Apalachicola-Bay-Oyster-Harvesting-License> (last visited Jan. 19, 2018).

¹⁰ s. 379.361(5)(i), F.S.

¹¹ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 3 (Nov. 21, 2017).

Pesticide Registration Payment Method (Section 3)

Present Situation

All payments of pesticide registration fees, including late fees, must be submitted electronically using the DACS website.¹²

Effect of Proposed Changes

The bill removes the electronic submission requirement of payments and allows alternate payment methods.

Private Investigative, Private Security, and Repossession Services (Sections 4 & 5)

Present Situation

Current law requires that an applicant for an initial Class "K" (firearms instructor) license¹³ submit an application, photograph, requisite fees and a full set of fingerprints, and provide proof of firearm training.¹⁴ Specifically, the law requires firearms instructor license applicants to submit one of the following as proof of firearm training:

- The Florida Criminal Justice Standards and Training Commission Instructor Certificate¹⁵ and written confirmation by the commission that the applicant possesses an active firearms certification.
- A valid National Rifle Association Private Security Firearm Instructor Certificate¹⁶ issued not more than 3 years before the submission of the applicant's Class "K" application.
- A valid firearms instructor certificate issued by a federal law enforcement agency issued not more than 3 years before the submission of the applicant's Class "K" application.

Each Class "K" license renewal applicant is also required to submit one of these certificates as proof that he or she remains certified to provide firearms instruction.¹⁷

Effect of Proposed Changes

The bill allows veterans who served as firearms instructors in the military to provide proof of firearms instructor status when applying for initial and renewal of Class "K" licensure. For an initial application, the bill allows the applicant to submit a valid DD form 214 issued not more than three years before the submission of the applicant's Class "K" application, indicating the applicant has been honorably discharged and served at least three years in the military as a firearms instructor.

For a renewal application, the bill allows the applicant to submit proof of having taught no less than six, 28-hour firearms instruction courses to Class "G" (statewide firearm) license applicants during the previous triennial licensure period.

¹² s. 487.041(1)(i), F.S.

¹³ s. 493.6101(14), F.S., defines "firearm instructor" as any Class "K" licensee who provides classroom or range instruction to applicants for a Class "G" statewide firearm license.

¹⁴ s. 493.6105(6), F.S.

¹⁵ Information regarding the Criminal Justice Standards & Training Commission Certificate can be found on the Florida Department of Law Enforcement Criminal Justice Standards & Training Commission (CJSTC) webpage, available here: <http://www.fdle.state.fl.us/cms/CJSTC/Commission/CJSTC-Home.aspx> (last visited Jan. 19, 2018).

¹⁶ Information regarding the National Rifle Association Instructor Development Schools can be found on the NRA Instructor Development Schools webpage, available here: <http://le.nra.org/training/instructor-development-schools.aspx#schedule> (last visited Jan. 19, 2018).

¹⁷ s. 493.6113(3)(d), F.S.

Solicitation of Contributions (Sections 6 & 7)

Present Situation

Organizations that intend to solicit donations in Florida are required to register with DACS pursuant to the Solicitation of Contributions Act (SCA).¹⁸ The SCA contains basic registration, financial disclosure, and notification requirements for charitable organizations and sponsors, fundraising consultants, and solicitors. Veterans' organizations that have been granted a federal charter under Title 36, U.S.C., are exempt from the DACS registration requirements.¹⁹

While DACS does not oversee the activities of the organizations that must register, it does monitor an organization's activities to ensure compliance with the requirements of the SCA. In addition, DACS provides information to the public on organizations that are registered to solicit contributions in Florida via the DACS Check-A-Charity database.²⁰

The SCA contains a list of acts that are prohibited when done in connection with any solicitation or charity sales promotion.²¹ Examples of prohibited acts include, but are not limited to:

- Submitting false, misleading, or inaccurate information in a document that is filed with DACS, provided to the public, or offered in response to a request or investigation by DACS, the Department of Legal Affairs, or the state attorney;
- Representing that the contribution is for or on behalf of a charitable organization or sponsor or to use any emblem, device, or printed matter belonging to or associated with a charitable organization or sponsor, without first being authorized in writing to do so by the charitable organization or sponsor; and
- Using a name, symbol, emblem, device, service mark, or statement so closely related or similar to that used by another charitable organization or sponsor that the use thereof would mislead the public.

In addition, each charitable organization, sponsor, professional fundraising consultant, and professional solicitor is required to keep for at least 3 years true and accurate records regarding its activities in this state which are covered by the SCA.²² The records must be made available, without subpoena, to DACS for inspection and must be furnished no later than 10 working days after requested.²³

Current law does not prohibit commingling or contain recordkeeping requirements, regarding charitable and non-charitable funds. According to DACS, investigations of allegations of misuse of charitably-solicited funds are oftentimes made more challenging by the need to decouple charitable and non-charitable monies in the accounting records.²⁴

Effect of Proposed Changes

The bill prohibits the commingling of contributions with noncharitable funds by charitable organizations and sponsors. The bill requires that each charitable organization, sponsor, professional fundraising consultant, and professional solicitor that collects or takes control or possession of contributions made for a charitable purpose do the following:

- Keep records to permit accurate reporting and auditing as required by law;
- Not commingle contributions with noncharitable funds as specified in s. 496.415(19), F.S.; and

¹⁸ ch. 496, F.S.

¹⁹ s. 496.406(1)(c), F.S.

²⁰ The Florida Department of Agriculture and Consumer Services, *Check-A-Charity*, <https://csapp.800helpfla.com/CSPublicApp/CheckACharity/CheckACharity.aspx> (last visited Jan. 19, 2018).

²¹ See s. 496.15, F.S.

²² s. 496.418, F.S.

²³ *Id.*

²⁴ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 4 (Nov. 21, 2017).

- Be able to account for the funds.

The bill provides that when expenditures of a charitable organization are not properly documented and disclosed by records, there exists a rebuttable presumption of impropriety. The bill stipulates noncharitable funds as including any funds that are not used or intended to be used for the operation of the charity or for charitable purposes.

Water Vending Machines (Section 8)

Present Situation

Water vending-machine applicants must currently submit forms to DACS “in writing”, which prohibits the use of digital applications. DACS issues serialized permit ID decals to approved vending machine-owners; however, the serialized decals are inconsistent with non-serialized decals used in other DACS inspection programs.

Effect of Proposed Changes

The bill removes the requirement that an application for a water vending machine operating permit be made “in writing”, and that the operating permit number be placed on each water vending machine. These changes allow for the electronic submission of water vending-machine application forms and the issuance of non-serialized decals.

Telephone Solicitation (Sections 9 & 10)

Present Situation

The federal Telephone Consumer Protection Act provides for restrictions on unsolicited advertisement to a telephone.²⁵ The state mirrors this provision statutorily²⁶ and requires DACS to maintain the state's Do Not Call list,²⁷ also known as the “no sales solicitation calls” list.²⁸

A “telephonic sales call” is defined as a telephone call or text message to a consumer for the purpose of soliciting a sale of any consumer goods or services, soliciting an extension of credit for consumer goods or services, or obtaining information that will or may be used for the direct solicitation of a sale of consumer goods or services or an extension of credit for such purposes.²⁹

According to DACS, advances in ringless communication technology allow telemarketers to directly deliver voicemail messages without causing a customer's phone to ring.³⁰ The department believes that ringless communication constitutes a telephonic sales call under the state's Do Not Call statute.³¹ In the absence of a federal rule regarding this technological innovation, DACS believes adding a state prohibition of ringless voicemails is necessary.³²

²⁵ 47 U.S.C. § 227.

²⁶ s. 501.059, F.S.

²⁷ Information regarding the Do Not Call list can be found at the Florida Department of Agriculture and Consumer Services, *Florida DO NOT CALL Program* webpage, available at: <https://www.fldnc.com/About.aspx> (last visited Jan. 19, 2018).

²⁸ s. 501.059(3), F.S.

²⁹ s. 501.059(1)(g), F.S.

³⁰ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 5 (Nov. 21, 2017).

³¹ *Id.* at 5 and 6.

³² *Id.* at 6.

Effect of Proposed Changes

The bill expands consumer protections provided under the state's Do Not Call statute, prohibiting ringless direct-to-voicemail solicitation phone calls and requiring commercial telephone sellers to retain and make call records available.

The bill includes "ringless direct-to-voicemail delivery" in the definition of "telephonic sales call." The bill adds "business" to the list of entities to whom a telephone solicitor or other person is prohibited from calling or texting when the entity communicates to the telephone solicitor or other person that he or she does not wish to receive a call or text message.

The bill requires a commercial telephone seller to keep the following information for 2 years after the date the information first becomes part of the seller's business records:

- The name and telephone number of each consumer contacted by a telephone sales call;
- All express requests authorizing the telephone solicitor to contact the consumer; and
- Any script, outline, or presentation the applicant requires or suggests a salesperson use when soliciting, including sales information or literature to be provided by the commercial telephone seller to a salesperson and a consumer in connection with any solicitation.

Within 10 days of an oral or written request by DACS, including a written request transmitted by electronic mail, a commercial telephone seller must make the records it keeps available for inspection and copying by DACS during DACS's normal business hours. This provision does not limit DACS's ability to inspect and copy material pursuant to any other law.

Florida Antifreeze Act (Sections 11-14)

Present Situation

Section 501.912, F.S., currently has separate definitions for antifreeze, antifreeze coolant, and summer coolant. Current law authorizes DACS to access at reasonable hours all places and property where antifreeze is stored, distributed, or offered or intended to be offered for sale, including the right to inspect and examine all antifreeze and to take reasonable samples of antifreeze for analysis together with specimens of labeling.³³ All samples taken must be properly sealed and sent to a laboratory designated by DACS for examination together with all labeling pertaining to such samples.³⁴

Effect of Proposed Changes

The bill makes several changes to the state Antifreeze Act. The bill consolidates the definition of antifreeze to include all antifreeze-coolant, antifreeze and summer coolant, extends antifreeze permitting for up to 24-months, eliminates phased-out product affidavits, and removes the requirement for DACS internal testing (parallels the brake fluid provisions).

The bill changes the registration application timeframe from annual to both annual and biennial, and requires the expiration timeframes to be indicated on the registration certificate. The bill specifies that for each brand of antifreeze, the application fee for a 12-month registration is \$200 and a 24-month registration is \$400.

The bill removes the provisions that addresses a registered brand that is not in production for distribution in this state. The bill requires that a completed registration application be accompanied by specimens or copies of the label for each brand of antifreeze, instead of the current requirement of specimens or facsimiles of the label for each brand of antifreeze.

³³ s. 501.917, F.S.

³⁴ *Id.*

The bill removes the requirement that a completed application be accompanied by a one to two gallon labeled sample of each brand of antifreeze, and instead requires that all first-time applications be accompanied by a certified report from an independent testing laboratory, dated no more than 6 months prior to the registration application, setting forth the analysis which shows that the antifreeze conforms to minimum standards required for antifreeze by this part or rules of DACS, and is not adulterated.

The bill requires collected samples to be analyzed by DACS. The bill provides that the certificate of analysis by DACS is prima facie evidence of the facts stated therein in any legal proceeding in the state.

The bill revises the requirement that a statement of formula be required for analysis by the laboratory designated by DACS by removing the laboratory designation terminology. According to DACS, this change makes antifreeze formula requirements consistent with the internal departmental-testing, and will allow the department to have reasonable access to an antifreeze manufacturer's formula for the purposes of confirming the independently-conducted testing results submitted with an application.³⁵

Skimming Devices (Section 15)

Present Situation

When departmental inspectors locate credit and debit card skimming devices, they contact the Office of Agriculture Law Enforcement (OALE) or, when geographic and staffing issues prevent a response from OALE, local law enforcement is asked to remove these devices. These law enforcement personnel seize these illegal devices and maintain the chain of custody for future legal proceedings. DACS staff often wait on-site for an average of two to three hours per incident because these are non-emergency requests.

Effect of Proposed Changes

The bill amends DACS' responsibilities relating to credit and debit card skimming devices, conforming the definitions of "scanning device" and "payment card" to the definitions used in the State Credit Card Crime Act,³⁶ and allowing for the lawful seizure of "skimming devices" by DACS regulators.

The bill authorizes DACS to seize without warrant any skimming device, as defined in s. 817.625, F.S., for use as evidence. According to DACS, this will free up tremendous personnel resources for further enforcement.³⁷

Brake Fluid (Sections 16 & 17)

Present Situation

Applicants currently must submit all brake fluid brands and products to the Bureau of Standards' laboratory for testing prior to initial registration. Despite this requirement, there are no assurances that the samples that DACS tests are the same as the products being offered for sale since the applicant collects and ships samples directly to the laboratory.

³⁵ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 7 (Nov. 21, 2017).

³⁶ part II, ch. 817, F.S.

³⁷ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 8 (Nov. 21, 2017).

Effect of Proposed Changes

The bill makes several changes to the law that provides guidance to DACS' regulation of brake fluid products in the state. The bill allows brake fluid permitting up to 24-months, eliminates phased-out product affidavits, and revises DACS testing requirements (parallels antifreeze provisions).

The bill authorizes a 24-month brake fluid registration period in addition to the 12-month registration period, and sets forth an application fee of \$50 for the 12-month registration, or \$100 for the 24-month registration. The bill requires completed brake fluid registration applications to be accompanied by specimens or copies of the label for each brand of brake fluid, and an application fee of \$50 for a 12-month registration or \$100 for a 24-month registration for each brand of brake fluid.

The bill requires that the certified report from an independent testing laboratory required of all first time-applicants be dated no more than six months before the registration application. The bill removes the requirement that an applicant submit to DACS a sample of at least 24 fluid ounces of brake fluid in a container with a label printed in the same manner that it will be labeled when sold, and removes the requirement that the sample and container be analyzed and inspected by DACS in order that compliance be verified.

The bill removes the requirement that a registrant submit a notarized affidavit on company letterhead to DACS if a registered brand and formula combination is no longer in production for distribution in this state.

The bill requires collected brake fluid samples to be analyzed by DACS, and the certificate of analysis by DACS to be prima facie evidence of the facts stated therein in any legal proceeding in this state.

According to DACS, allowing businesses to submit readily available analysis reports for new products will streamline registration and will allow the laboratory to focus on inspection samples, thereby creating efficiencies for all parties and greater protections for consumers.³⁸ Additionally, businesses may opt to register products for 24-months, which offers both the applicants and DACS increased opportunities for efficiencies.³⁹

Liquefied Petroleum Gas (Sections 18-28)

Present Situation

Currently, DACS regulates the licensing, inspection and training requirements relating to the liquefied petroleum (LP) gas industry.⁴⁰ The bill makes several changes to the business practices, registration process, and regulatory structure of the chapter of law governing the sale of LP gas. According to DACS, these changes were made in collaboration with the Florida LP Gas Association and other industry leaders to modernize the LP gas statute.⁴¹

Definitions (Section 18)

Current law governing LP gas provides definitions for numerous LP gas and the LP gas license categories.⁴² These licenses include those for selling propane, installation, service or repair work, manufacture of equipment, and other miscellaneous activities.

³⁸ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 8 (Nov. 21, 2017).

³⁹ *Id.*

⁴⁰ ch. 527, F.S.

⁴¹ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 9 (Nov. 21, 2017).

⁴² s. 527.02, F.S.

Effect of Proposed Changes

The bill clarifies LP gas license categories, revises the license year terminology, and expands the license period from one to three years from the issuance of the license. The bill also removes the word “ultimate” from the definition of “ultimate consumer” throughout the LP gas chapter of law. According to DACS, the definitional clarifications sought in this provision modernize subsequent LP gas statutory requirements.⁴³

License, Penalty, Fees (Section 19)

Present Situation

Section 527.01, F.S., provides definitions related to liquefied petroleum gas. Section 527.02, F.S., provides a two-tiered LP gas fee structure with separate fees for an Original Application Fee and a Renewal Fee.

Effect of Proposed Changes

The bill redefines the LP gas unlawful activities by incorporating the activities specified in s. 527.01(6)-(11), F.S., replaces the two-tiered LP gas fee structure with a single tiered annual fee structure with new fees, allows a material change in license information prior to renewal with a \$10 fee. In addition, the bill revises the requirement that DACS waive the initial license fee for honorably discharged veterans, their spouses, or the businesses they own by only allowing the waiver to occur for one year.

The bill deletes the provisions related to pipeline-system operator licensure and fees. According to DACS, pipeline-operator requirements are now regulated under federal code⁴⁴ and only monitored by DACS during the startup phase or after an incident.⁴⁵ The bill deletes the transferability of LP gas licensure as licenses may be applied for continuously instead of once annually.

Qualifiers; Master Qualifiers; Examinations (Section 20)

Present Situation

Currently, any person applying for a license to engage in the activities of a pipeline system operator, category I liquefied petroleum gas dealer, category II liquefied petroleum gas dispenser, category IV liquefied petroleum gas dispenser and recreational vehicle servicer, category V liquefied petroleum gases dealer for industrial uses only, LP gas installer, specialty installer, requalifier of cylinders, or fabricator, repairer, and tester of vehicles and cargo tanks must prove competency by passing a written DACS examination with a grade of 75 percent or above in each area tested.

Upon successful completion of the competency examination, DACS currently issues a qualifier identification card to the examinee. The qualifier identification card remains in effect as long as the individual provides DACS proof of active employment in the area of examination and all continuing education requirements are met.

Effect of Proposed Changes

The bill requires only persons applying for a license to engage in category I, II, and V activities to prove competency by passing the written DACS examination. The bill reduces the DACS examination grade percentage that the applicants must achieve for passage from 75 percent or above, to 70 percent or above. The bill requires DACS to register an examinee who successfully completes the examination,

⁴³ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 9 (Nov. 21, 2017).

⁴⁴ 49 CFR § 191, § 192 (2017).

⁴⁵ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 9 (Nov. 21, 2017).

instead of issuing the examinee a qualifier identification card. The bill revises the automatic expiration provision for qualifiers so that it addresses the registration instead of the identification cards, and makes conforming changes regarding registration as opposed to qualifier status. The bill requires businesses in license categories I, II and V to employ a full time qualifier in each business location.

The bill provides that qualifier registration, instead of cards, expire three years after the date of issuance. The bill removes an outdated qualifier qualification renewal date, and requires persons failing to renew before the expiration date to reapply and take a qualifier competency examination in order to reestablish qualifier status.

The bill removes the requirement that if a category I LP gas qualifier or LP gas installer qualifier becomes a master qualifier at any time during the effective date of the qualifier card, the card shall remain in effect until expiration of the master qualifier certification.

The bill provides that a qualifier for a business must actually function in a supervisory capacity of other company employees performing licensed activities, and removes the requirement for additional qualifiers for those business organizations employing more than 10 employees that install, repair, maintain, or service LP gas equipment and systems.

The bill revises the requirement that each category I LP gas dealer and LP gas installer, at the time of application for licensure, identify to DACS one master qualifier who is a full-time employee at the licensed location, to instead require this of a category I and category V licensee.

In order to apply for certification as a master qualifier, the bill requires each applicant to have been a registered qualifier for a minimum of 3 years immediately preceding submission of the application, employed by a licensed category I or category V licensee, or applicant for such license, and pass a master qualifier competency examination. The bill removes the requirement that the master qualifier registration include the name of the licensed company for which the master qualifier is employed. The bill replaces references to the master qualifier certificate with master qualifier registration, and makes conforming changes.

The bill removes the requirement that each category I LP gas dealer or installer licensed as of August 31, 2000, identify to DACS one current category I LP gas dealer qualifier or LP gas installer qualifier who will be the designated master qualifier for the license holder. The bill removes the requirement that a failure by a business organization to obtain a replacement qualifier within 60 days after a vacancy shall be grounds for revocation of licensure or eligibility for licensure. Further removed is the requirement that a failure by a category I or category V licensee to obtain a replacement master qualifier within 90 days of a vacancy shall be grounds for revocation of licensure or eligibility for licensure.

Registration of Transport Vehicles (Section 21)

Present Situation

Owners or lessees of LP gas vehicles must register transport vehicle with DACS annually.

Effect of Proposed Changes

The bill revises the annual registration requirement to instead require each LP gas bulk delivery vehicle owned or leased by an LP gas licensee to be registered as part of the licensing application or when placed into service.

License Renewals (Section 22)

Present Situation

Current law requires all LP gas licenses to be renewed annually within certain timeframes, and subject to the license fees.⁴⁶ All licenses, except Category III LP Gas Cylinder Exchange Unit Operator licenses and Dealer in Appliances and Equipment for Use of LP Gas licenses, must be renewed for the period beginning September 1 and expire on the following August 31 unless sooner suspended, revoked, or otherwise terminated. Category III LP Gas Cylinder Exchange Unit Operator licenses and Dealer in Appliances and Equipment for Use of LP Gas licenses must be renewed for the period beginning April 1 and expire on the following March 31 unless sooner suspended, revoked, or otherwise terminated. Any license allowed to expire becomes inoperative because of failure to renew. The fee for restoration of a license is equal to the original license fee and must be paid before the licensee is allowed to resume operations.

Effect of Proposed Changes

The bill allows LP gas licenses to be renewed annually, biennially, or triennially, as elected by the licensee, requires all renewals to meet the same requirements and conditions as an annual license for each licensed year, and removes the license category renewal timeframes. According to DACS, these changes optimize the application process and should accelerate application processing, especially during periods of high volume.⁴⁷

Proof of Insurance (Section 23)

Present Situation

Currently, LP gas companies are required to provide DACS with proof of insurance coverage or a surety bond to conduct business in the state. However, for a license other than a dealer in appliances and equipment for use of liquefied petroleum gas or a category III liquefied petroleum gas cylinder exchange operator, the Governor is authorized to accept a \$1 million bond in lieu of the insurance policy requirements.⁴⁸ For a license issued to a class III liquefied petroleum gas cylinder exchange operator, the Governor is authorized to accept a bond of at least \$300,000 in lieu of the insurance policy requirements.⁴⁹

Effect of the Proposed Change:

This bill replaces the Governor with the Commissioner of Agriculture as the responsible party authorized to accept the \$1 million and the \$300,000 bonds in lieu of the insurance policy requirements. The bill also adds category IV licenses to the exceptions to the insurance requirements. According to DACS, these changes will align this program with similar initiatives and programs such as agricultural dealers, movers and sellers, to make it consistent with historical legislative intent and to optimize interactions with the surety company.⁵⁰

⁴⁶ s. 527.03, F.S.

⁴⁷ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 10 (Nov. 21, 2017).

⁴⁸ s. 527.04(1), F.S.

⁴⁹ s. 527.04(2), F.S.

⁵⁰ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 10-11 (Nov. 21, 2017).

Bulk Storage Locations; Jurisdiction (Section 24)

Present Situation

Current law requires, prior to the installation of any bulk storage container, an LP gas licensee to submit to DACS a site plan of the facility, which shows the proposed location of the container, and to obtain written approval of such location from DACS. A fee of \$200 is assessed for each site plan that DACS reviews. The review must include preconstruction inspection of the proposed site, plan review, and final inspection of the completed facility.⁵¹

Effect of Proposed Changes

The bill removes the requirements that an LP gas licensee submit to DACS a site plan of the facility, which shows the proposed location of the container, the requirement to obtain written approval of such location from DACS, and the fee of \$200 which is assessed for each site plan that DACS reviews. The bill also removes the requirement for the review to include preconstruction inspection of the proposed site, plan review, and final inspection of the completed facility. According to DACS, master qualifiers have the ability and expertise to review site plans for compliance prior to installation, and a final inspection by DACS is still required prior to commencing operations.⁵²

Notification of Accidents; Leak Calls; Jurisdiction (Section 25)

Present Situation

Currently, immediately upon discovery, all LP gas licensees are required to notify DACS of any LP gas-related accident that involves an LP gas licensee or customer account. The accident must fall under one of the following descriptions:

- Caused a death or personal injury requiring professional medical treatment;
- Uncontrolled ignition of LP gas resulted in death, personal injury, or property damage exceeding \$1,000; or
- Caused estimated damage to property exceeding \$1,000.⁵³

Effect of Proposed Changes

The bill increases the cost threshold for reporting LPG accidents involving property damage and/or personal injury from \$1,000 to \$3,000. According to DACS, this reflects inflation adjusted costs.⁵⁴ The dollar value has not been updated since 2003.⁵⁵

Restriction on Use of Unsafe Container or System (Section 26) & Definitions Relating to Florida Propane Gas Education, Safety, and Research Act (Section 27)

Present Situation

Currently, the definition for “dealer” and “wholesaler” relating to the Florida Propane Gas Education, Safety, and Research Act include the term “ultimate consumer.”

⁵¹ s. 527.0605, F.S.

⁵² Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 11 (Nov. 21, 2017).

⁵³ s. 527.065(1), F.S.

⁵⁴ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 11 (Nov. 21, 2017).

⁵⁵ The last time the dollar value was revised was in 2003 (Ch. No. 2003-132, Laws of Florida.) providing that an LP gas-related incident must be reported by an LP gas licensee only when it involves death, personal injury, or property damage exceeding \$1,000.

Effect of Proposed Changes

The bill removes the term “ultimate” from “ultimate consumer” to make these provisions consistent with the rest of the chapter regarding consumers.

Florida Propane Gas Education, Safety, and Research Council⁶⁶ Established; Membership; Duties and Responsibilities (Section 28)

Present Situation

Section 527.22, F.S., currently requires the Commissioner of Agriculture to “make a call to” qualified industry organizations for nominees to the Florida Propane Gas Education, Safety, and Research Council.

Effect of Proposed Changes

The bill removes the requirement that the Commissioner of Agriculture make a call to qualified industry organizations for nominees to the Florida Propane Gas Education, Safety, and Research Council but retains the submission of nominees by qualified industry organizations. According to DACS, this streamlines the appointment process for the council.⁵⁷

Weights, Measures, and Standards (Section 29)

Present Situation

Currently, the DACS Bureau of Standards is responsible for the inspection of weights and measures devices or instruments in Florida.⁵⁸ The law defines “weights and measures” as all weights and measures of every kind, instruments, and devices for weighing and measuring, and any appliance and accessories associated with any or all such instruments and devices, excluding those weights and measures used for the purpose of inspecting the accuracy of devices used in conjunction with aviation fuel.⁵⁹ The weights and measures program is funded through permit fees.⁶⁰ This framework including provisions related to general permitting, initial and renewal applications, maximum permit fees, suspensions, penalties, revocations, and exemptions, is set to expire on July 1, 2020.

Effect of Proposed Changes

The bill extends the expiration date for the weights and measures program permitting fee framework until July 1, 2025. According to DACS, it will no longer be able to cover the costs to perform this function if the permitting statute is not extended.⁶¹

DACS Emergency Powers (Section 30)

Present Situation

Current law governing emergency management gives the Governor extensive authority to act as he or she deems necessary during a declared state of emergency.⁶² The law authorizes the Governor to assume or delegate direct operational control over all or any part of the emergency management

⁵⁶ s. 527.22, F.S.

⁵⁷ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 12 (Nov. 21, 2017).

⁵⁸ ch. 531, F.S., “Weights and Measures Act of 1971.”

⁵⁹ s. 531.37(1), F.S.

⁶⁰ s. 531.67, F.S.

⁶¹ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 12 (Nov. 21, 2017).

⁶² ch. 252, F.S.

functions within this state.⁶³ In addition, the Governor may issue executive orders, proclamations, and rules, which have the force and effect of law.⁶⁴ In addition, the Governor is authorized to, among other things, use all resources of the state government and of each political subdivision of the state, as reasonably necessary to cope with the emergency.⁶⁵

Currently, DACS is authorized to declare an emergency when one exists in any matter pertaining to agriculture, and to make, adopt, and promulgate rules and issue orders, which will be effective during the term of the emergency.⁶⁶

During the 2017 hurricane season, Hurricane Irma was the largest, most powerful hurricane ever recorded on the Atlantic Ocean, and among the strongest hurricanes ever to make direct landfall in the United States. Besides causing major devastation to Florida's coastal communities, Irma brought hurricane and tropical storm conditions to every one of Florida's 67 counties. Hurricane Irma's path coincided with some of Florida's most productive agricultural landscapes, and consequently it caused major losses to all segments of production agriculture. Total crop losses are estimated at \$2,014,481,961; while total losses to production agriculture are estimated at \$2,558,598,303.⁶⁷

Effect of Proposed Changes

The bill authorizes the Commissioner of Agriculture during a state of emergency declared pursuant to s. 252.36, F.S., to waive fees by emergency order for duplicate copies or renewal of permits, licenses, certifications, or other similar types of authorizations during a period specified by the commissioner. According to DACS, the proposed revision clarifies the Commissioner of Agriculture's authority during a state of emergency by referencing the emergency management chapter of the Florida Statutes in the chapter related to DACS.⁶⁸

Marketing Order Notice, Nathan Mayo Building (Section 31)

Present Situation

Before the issuance, suspension, amendment, or termination of any marketing order covered by chapter 573, F.S., or departmental actions effecting marketing orders, a notice must be posted on the Mayo Building public bulletin board in Tallahassee in addition to providing this same information on DACS' website.

Effect of Proposed Changes

The "Florida Agricultural Commodities Marketing Law" regulates the marketing of agricultural commodities through the establishment of marketing orders and agreements.⁶⁹ A marketing order is an order issued by DACS, prescribing rules governing the distribution, or handling in any manner, of agricultural commodities in the primary channel of trade during any specified period or periods.⁷⁰

Before the issuance of any marketing order, or any suspension, amendment, or termination thereof, a notice must be posted on a public bulletin board maintained by DACS in the Nathan Mayo Building,

⁶³ s. 252.36(1)(a), F.S.

⁶⁴ s. 252.36(1)(b), F.S.

⁶⁵ s. 252.36(5)(b), F.S.

⁶⁶ s. 570.07(21), F.S.

⁶⁷ THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, *Hurricane Irma's Damage to Florida Agriculture*, <http://www.freshfromflorida.com/content/download/77515/2223098/FDACS+Irma+Agriculture+Assessment.pdf> (last visited Jan. 19, 2018).

⁶⁸ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 12 (Nov. 21, 2017).

⁶⁹ See ch. 573, F.S.

⁷⁰ s. 573.103(9), F.S.

Tallahassee, Leon County, and a copy of the notice must also be posted on the DACS website the same day.⁷¹

The bill removes the requirement to post notice on a public bulletin board in the Nathan Mayo Building while maintaining the requirement to post notice to the DACS website.

Florida Seed Law (Sections 32-47)

Present Situation

DACS regulates the sale and distribution of all seed sold in Florida pursuant to the Florida Seed Law (FSL).⁷² According to DACS, technological and federal regulatory changes have created the need for Florida to update and reorganize the FSL.⁷³ Generally, trees and shrubs, and new seed types, are not addressed under the current law.

Effect of Proposed Changes

The bill makes several changes to this regulatory structure pursuant to recommendations from the Agricultural Feed, Seed and Fertilizer Advisory Council, which advises DACS on feed, seed and fertilizer enforcement issues.⁷⁴ DACS believes these changes will optimize regulation and decrease regulatory compliance costs within Florida's seed industry.⁷⁵ The changes also align the FSA with the provisions of the Recommended Uniform State Seed Law (RUSSL),⁷⁶ Federal Seed Act (FSA),⁷⁷ and Plant Variety Protection Act (PVPA).⁷⁸

Definitions (Section 32)

Present Situation

There have been numerous technological developments in seed production. Many of the definitions in section 578.011, F.S., do not reflect these new technologies.

Effect of Proposed Changes

The bill makes numerous definitional changes to the Florida Seed Law pursuant to recommendations of the DACS Agricultural Feed, Seed and Fertilizer Advisory Council. These changes mirror technological and regulatory changes found in RUSSL, FSA, PVPA, and the requirements of neighboring states.⁷⁹

⁷¹ s. 573.111, F.S.

⁷² ch. 578, F.S.

⁷³ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 13 (Nov. 21, 2017).

⁷⁴ DACS Agricultural Feed, Seed and Fertilizer Advisory Council, <http://www.freshfromflorida.com/About/Advisory-Councils-and-Committees/Agricultural-Feed-Seed-and-Fertilizer-Advisory-Council> (last visited Jan. 19, 2018).

⁷⁵ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 13 (Nov. 21, 2017).

⁷⁶ In 1946, the Association of American Seed Control Officials created the Recommended Uniform State Seed Law, often referred to as "RUSSL." That document serves as a model law for the states and is reviewed and updated regularly. While RUSSL is technically a guideline, rather than a law, it serves as a general reference point for states when seed law changes occur.

<https://soygrowers.com/laws-regs-considerations-buying-seed/> (last visited Jan. 19, 2018).

⁷⁷ 7 U.S.C. § 1551-1611. The Federal Seed Act is a truth-in-labeling law that governs the sale of seed in interstate commerce and seed imported into the United States. The aim of the Act is to provide detailed regulations covering sale of seed on a national basis. Normally, it has no jurisdiction over seed produced and marketed within state boundaries. The federal and state seed laws contain somewhat similar requirements. If seed is labeled to comply with the Federal Seed Act and is shipped in interstate commerce, it will normally comply with the labeling requirements of the state into which it is shipped. Thus, the Act helps maintain the integrity of each state seed law; however, no state may set standards for seed moving into the state from another below the minimum required by the Federal Seed Act. https://link.springer.com/chapter/10.1007/978-1-4615-1619-4_18 (last visited Jan. 19, 2018).

⁷⁸ 7 U.S.C. ch. 57. The Plant Variety Protection Act provides legal intellectual property rights protection to breeders of new varieties of plants, which are sexually reproduced (by seed) or tuber-propagated.

⁷⁹ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 13 (Nov. 21, 2017).

Preemption (Section 33)

Present Situation

Currently, DACS regulates the sale and distribution of all seed sold in Florida. However, the authority to regulate seed is not expressly preempted to the state.

Effect of Proposed Changes

The bill provides that it is the intent of the Legislature to eliminate duplication of regulation of seed. The bill provides that this chapter is intended as comprehensive and exclusive and occupies the whole field of regulation of seed. The bill preempts the authority to regulate seed or matters relating to seed to the state. The bill prohibits a local government or political subdivision of the state from enacting or enforcing an ordinance that regulates seed, including the power to assess any penalties provided for violation of this chapter.

Registrations (Section 34)

Present Situation

Currently, persons who intend to sell, distribute for sale, offer for sale, expose for sale, handle for sale, or solicit orders for the purchase of any agricultural, vegetable, flower, or forest tree seed or mixture thereof, are required to register with DACS as a seed dealer.⁸⁰ According to DACS, seeds for trees and shrubs are not explicitly covered by the current statute and several of the provisions need updates given current advances in technology.⁸¹

Effect of Proposed Changes

The bill removes references to s. 578.14, F.S., relating to packet vegetable and flower seed. The bill expands the definition of tree seeds by deleting "forest" and including "shrub seeds" to the types of seeds that require registration.

The bill requires the application for registration to include the name and location of each place of business at which the seed is sold, distributed for sale, offered for sale, exposed for sale, or handled for sale. The bill removes the requirement that registration and payment receipts from DACS be written. This eliminates the need for DACS to issue registration receipts, and thus allows for electronic receipts.

The bill removes the exemption from registration requirements for agricultural experiment stations of the State University System and places it in the section of the FSL directly relating to exemptions.

The bill also provides that when packet seed is sold, offered for sale, or exposed for sale, the company who packs seed for retail sale must register and pay fees as provided.

Label Requirements for Agricultural, Vegetable, Flower, and Tree or Shrub Seed (Section 35)

Present Situation

Current law sets forth seed label requirements for each container of agricultural, vegetable, or flower seed sold, offered for sale, exposed for sale, or distributed for sale within this state for sowing or

⁸⁰ s. 578.08(1), F.S.

⁸¹ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 14 (Nov. 21, 2017).

planting purposes.⁸² As with the previous section, trees and shrubs are not explicitly covered under the current law, and sections relating to new seed types are not addressed.⁸³

When seeds are treated with certain substances, the current statute only requires a cautionary statement such as “Do not use for food, feed, or oil purposes,” which is inconsistent with current Environmental Protection Agency (EPA) requirements and provisions of the FSA.⁸⁴

Effect of Proposed Changes

The bill revises the labeling requirements to align with RUSSEL, deletes specific terms and font requirements, adds provisions relating to coated and vegetable seeds, moves DACS’ authority to prescribe uniform analysis tags, for consistency, includes additional terms to clarify requirements of all seed types, including those of trees and shrubs, allows the term, “blend,” as an option for identifying products containing more than one agricultural seed component, includes lawn and turf seed under the requirements and clarifies that hybrids thereof must be labeled as hybrids.

Forest Tree Seed (Section 36)

Present Situation

Current law governing forest tree seed requires each container sold, offered for sale, exposed for sale, or transported within this state for sowing purposes, to meet certain labeling requirements.⁸⁵

Effect of Proposed Changes

The bill repeals the section of law relating to labeling of forest tree seed. These requirements are replaced with expanded provisions relating to all tree and shrub seeds, and included in the aforementioned revised section of law relating to label requirements.⁸⁶

Exemptions (Section 37)

Present Situation

Currently, the FSL exempts the following from the FSL labeling requirements and prohibitions:

- Seed or grain not intended for sowing or planting purposes.
- Seed in storage in, consigned to or being transported to seed cleaning or processing establishments for cleaning or processing only. Any labeling or other representation which may be made with respect to the unclean seed shall be subject to this law.⁸⁷

The FSL also provides an exemption from the criminal penalties of this law for persons having sold, offered, exposed, or distributed for sale in this state any agricultural, vegetable, or forest tree seed incorrectly labeled or represented.⁸⁸

Effect of Proposed Changes

The bill adds an exemption for seed under development or maintained exclusively for research purposes. The bill revises the exemption for incorrectly labeled seed. The bill provides that if seeds

⁸² s. 578.09, F.S.

⁸³ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 14 (Nov. 21, 2017).

⁸⁴ *Id.*

⁸⁵ s. 578.091, F.S.

⁸⁶ s. 578.09, F.S.

⁸⁷ s. 578.10(2), F.S.

⁸⁸ s. 578.10(3), F.S.

cannot be identified by examination thereof, a person is not subject to the criminal penalties of this chapter for having sold or offered for sale seeds subject to this chapter which were incorrectly labeled or represented as to kind, species, and, if appropriate, subspecies, variety, type, or origin, elevation, and, if required, year of collection unless he or she has failed to obtain an invoice, genuine grower's or tree seed collector's declaration, or other labeling information and to take such other precautions as may be reasonable to ensure the identity of the seeds to be as stated by the grower. The bill provides that a genuine grower's declaration of variety must affirm that the grower holds records of proof of identity concerning parent seed, such as invoice and labels.

According to DACS, the proposed language aligns with RUSSEL and clarifies the release from liability afforded to a person who unknowingly sells mislabeled seed.⁸⁹ Additionally, the amendments clarify the limitations on criminal penalties attached to incorrectly labeled seed to require sellers to "take such other actions as may be reasonable to ensure the identity" beyond solely relying on a grower's or seed collector's declaration.⁹⁰ The modified statutory language is not likely to affect the number of criminal penalties issued.⁹¹ Further, it exempts seeds under development or maintained for research purposes from the FSL labeling and prohibitions provisions because they are not commercially available to consumers or businesses.⁹² The language regarding research purposes was expanded such that this exemption no longer solely applies to university entities.⁹³

Duties, Authority, and Rules of DACS; Stop-Sale, Stop-Use, Removal, or Hold Orders (Sections 38 & 39)

Present Situation

Multiple references to "forest tree seed" is used throughout the sections of law that sets forth the duties, authority and rulemaking requirements of DACS relating to the FSL,⁹⁴ and the section of law that addresses stop-sale, stop-use, removal, or hold orders for violations of the FSL.⁹⁵

Effect of Proposed Changes

The bill replaces the multiple references to "forest tree seed" with "tree or shrub seed."

Prohibitions (Section 40)

Present Situation

Currently, it is unlawful for any person to sell, distribute for sale, offer for sale, expose for sale, handle for sale, or solicit orders for the purchase of any agricultural, vegetable, flower, or forest tree seed within this state.⁹⁶

According to DACS, given the proposed changes to seed label requirements for agricultural, vegetable, or flower seed, the prohibitions need to be modified for consistency.⁹⁷ The stop sale provisions and the requirements for certified seed labeling need further clarification.⁹⁸ The existing statute specifies seven

⁸⁹ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 15 (Nov. 21, 2017).

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

⁹⁴ s. 578.11, F.S.

⁹⁵ s. 578.12, F.S.

⁹⁶ s. 578.13(1), F.S.

⁹⁷ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 15 (Nov. 21, 2017).

⁹⁸ *Id.*

months as the germination-testing timeframe prior to sale.⁹⁹ The statute needs to be updated to include labeling prohibitions related to the PVPA.¹⁰⁰

Effect of Proposed Changes

The bill revises the section of law relating to prohibitions to be consistent with changes throughout the bill that expand the definition of seeds to include shrubs. The bill clarifies the stop-sale provisions and the requirements for certified seed labeling. The bill removes the seven month timeframe within which the test to determine the percentage of germination required by the FSL labeling requirements must be completed as all seed types are listed in the proposed section of the bill relating to labeling requirements, and each category of seed contains a specific germination testing requirement.

Packet Vegetable and Flower Seed (Section 41)

Present Situation

Currently, when vegetable or flower seed are sold, offered for sale, or exposed for sale in packets of less than 8 ounces, the company who packs the seed for retail sale is required to register and pay fees as provided under s. 578.08, F.S.¹⁰¹

Effect of Proposed Changes

The bill repeals the section of the FSL relating to packet vegetable and flower seed. The bill moves the registration requirements to the revised section of the FSL relating to registrations, and the labeling information to the revised section of the FSL relating to registrations, for consistency.

According to DACS, to promote regional continuity and to align with comparable areas of RUSSEL, the proposed language incorporates the 50% minimum germination standard for seed with no established standard and requires a seed count on products where seed is placed in a medium that inhibits seed identification and quantification, such as pre-potted plants.¹⁰²

Penalties and Administrative Fine (Section 42)

Present Situation

Currently, DACS is authorized to enter an order imposing one or more of the following penalties against a person who violates the FSL or the rules adopted under the FSL, or who impedes, obstructs, or hinders DACS in performing its duties under the FSL:

- Imposition of an administrative fine in the Class I category pursuant to s. 570.971, F.S., for each occurrence after the issuance of a warning letter.
- Revocation or suspension of the registration as a seed dealer.

Any person who violates the provisions of the FSL is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S. According to DACS, the current language could benefit from being aligned with penalty language found in other chapters.¹⁰³

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ s. 578.14, F.S.

¹⁰² Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 16 (Nov. 21, 2017).

¹⁰³ *Id.*

Effect of Proposed Changes

The bill revises the penalty provisions in the FSL relating to circumstances by which DACS may enter an order, and the types of violations the order may be based on. The bill also revises the requirement that DACS issue a warning letter before the imposition of an administrative fine in the Class I category. According to DACS, this will allow it to issue an administrative fine for egregious first-time offenses.¹⁰⁴

Dealers' Records (Section 43)

Present Situation

Currently, every seed dealer is required to make and keep for a period of 3 years satisfactory records of all agricultural, vegetable, flower, or forest tree seed bought or handled to be sold.¹⁰⁵ The records must at all times be made readily available for inspection, examination, or audit by DACS, and must also be maintained by persons who purchase seed for production of plants for resale. According to DACS, clarifying recordkeeping requirements and adopting similar language to that used by neighboring states would streamline the regulatory structure and enhance compliance.¹⁰⁶

Effect of Proposed Changes

The bill requires each person who allows his or her name or brand to appear on the label as handling agricultural, vegetable, flower, tree, or shrub seeds subject to the FSL to keep records pursuant to the following timeframes:

- For 2 years, complete records of each lot of agricultural, vegetable, flower, tree, or shrub seed handled.
- For 1 year after final disposition a file sample of each lot of seed.

The bill also requires the records and samples pertaining to the shipment or shipments involved to be accessible for inspection by DACS or its authorized representative during normal business hours. According to DACS, the proposed changes seek to align Florida's records provisions with RUSSEL for better clarity by reducing the seed record holding time from three years to two, by adding a one-year holding requirement for each seed lot after final disposition and by continuing to make such records and samples available for DACS inspection.¹⁰⁷

Complaints (Section 44)

Present Situation

Current law provides a complaint process to farmers when seed fails to produce or perform as represented by the label.¹⁰⁸ Farmers are required to make a sworn complaint to DACS against the dealer alleging damages sustained, and the Seed Investigation and Conciliation Council (Council) assists in determining the validity of complaints.¹⁰⁹

According to DACS, the current provisions only protect "farmers" and involve complaints stemming from the "label attached to the seed" without geographic limitation as to where the seed is planted.¹¹⁰ However, the labeling provisions should be broadened to include all written, printed, or graphic representations, in any form, accompanying and pertaining to the seed in question.¹¹¹ The applicability

¹⁰⁴ *Id.*

¹⁰⁵ s. 578.23, F.S.

¹⁰⁶ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 16 (Nov. 21, 2017).

¹⁰⁷ *Id.* at 16&17.

¹⁰⁸ s. 578.26, F.S.

¹⁰⁹ *Id.*

¹¹⁰ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 17 (Nov. 21, 2017).

¹¹¹ *Id.*

of the processes specified in this section should be clarified to limit them to complaints stemming from seed planted in Florida.¹¹²

Effect of Proposed Changes

The bill expands the types of complainants by replacing the term “farmer” with “buyer,” revises the reference to “forest tree seed” to instead reference “tree or shrub seed,” and limits complaints to those that stem from seed planted in this state. The labeling provision is broadened to include any labeling of such seed, instead of only the label attached to the seed.

The bill broadens the council’s inspection authority, and prohibits the buyer from commencing legal proceedings against the dealer or asserting such a claim as a counterclaim or defense in any action brought by the dealer until the findings and recommendations of the council are transmitted to the complainant and the dealer. The bill removes the requirement that DACS, upon receipt of the findings and recommendation of the Council, transmit them to the farmer and to the dealer by certified mail, and requires DACS to mail a copy of the council’s procedures to each party upon receipt of a complaint by DACS.

According to DACS, with the addition of the term “buyer,” the amendments seek to expand the definition of complaints covered to include all buyers (a person who purchases certain seed in packaging of 1,000 or more) and to limit liability to seed planted in the state.¹¹³ The changes require pursuing all administrative remedies available through the SICC prior to commencing any legal action.¹¹⁴ The bill also restates that DACS is to mail a copy of the SICC’s procedures to each party once a complaint has been filed.¹¹⁵

Seed Investigation and Conciliation Council (Section 45)

Present Situation

Current law requires the Council to assist farmers and agricultural seed dealers in determining the validity of complaints made by farmers against dealers.¹¹⁶ The law establishes the process by which Council members are appointed and how it operates. According to DACS, the terms and appointment process are inconsistent with the operation of other departmental advisory councils. Currently, protections afforded under this section apply only to farmers.¹¹⁷

Effect of Proposed Changes

The bill removes the requirement that the Commissioner of Agriculture appoint a seed investigation and conciliation counsel composed of alternate members. To conform to changes made in the complaints section of the bill, the bill expands covered complainants to include all “buyers,” expands the types of seed dealers by removing the term “agricultural,” and expands the Council’s authority to recommend settlements beyond cost damages. In addition, the bill streamlines the terms and succession of the Council councilmembers, updates the name of the Florida Seedsmen and Garden Supply Association, and clarifies the Council’s inspection requirements regarding the complainant’s farming operation.

Regarding terms and succession of the Council, the bill requires each member to be appointed for a term of 4 years or less and to serve until his or her successor is appointed, removes the staggered term lengths, and removes the requirement that each alternate member serve only in the absence of the member for whom she or he is an alternate.

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ s. 578.27, F.S.

¹¹⁷ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 17 (Nov. 21, 2017).

The bill expands the council's requirement to recommend settlements when appropriate that are not restricted to cost damages, and requires council inspections of the complainant's farm operation to apply to the buyer's property, crops, plants, or trees referenced in or relating to the complaint.

Seed in Hermetically Sealed Containers (Section 46)

Present Situation

Hermetically sealed containers are currently addressed in s. 578.28, F.S.

Effect of Proposed Changes

The bill rennumbers the section of law relating to seed in hermetically sealed containers from s. 578.28, F.S., to s. 578.092, F.S., as part of the overall reorganization of the Seed Law chapter.

Prohibited Noxious Weed Seed (Section 47)

Present Situation

Prohibited noxious weed seed is currently defined in s. 578.011, F.S.

Effect of Proposed Changes

Although there is a definition of prohibited noxious weed seed in current law, there is not expressed authority banning these weeds. The bill creates s. 578.29, F.S., prohibiting noxious weeds from being present in agricultural, vegetable, flower, tree, or shrub seed offered or exposed for sale in this state.

Florida Forest Service Commercial Driver License Examination Fee (Section 48)

Present Situation

The Department of Financial Services' Reference Guide for State Expenditures prohibits the use of public funds to pay license or examination fees under Chapter 69I-40.002(23), F.A.C. The Florida Forest Service (FFS) has 20 different job classes that require a Class A or B Commercial Driver's License (CDL) as a condition of employment.

Effect of Proposed Changes

The bill authorizes, but does not obligate, the FFS to pay the cost of an initial commercial driver license (CDL) examination for employees whose position requires them to operate such equipment.

According to DACS, the proposed policy would allow for one initial Class A or B CDL examination for those whose job classifications require a CDL as a condition of employment. Employees failing the initial test would then be required to pay for subsequent testing themselves. The proposed statutory change would ensure that the FFS has a sufficient number of personnel with CDLs for the suppression, detection, prevention and mitigation of wildfires. Further, this program would assist in the recruitment and the retention of FFS employees.¹¹⁸

¹¹⁸ *Id.* at 18.

Concealed Weapon or Firearm License (Sections 49 & 50)

Present Situation

Currently, DACS is authorized to issue licenses to carry concealed weapons or concealed firearms to qualified applicants.¹¹⁹ Within 90 days after the date of receipt of the completed application and other required items, DACS must issue or deny the license.¹²⁰ If DACS receives criminal history information with no final disposition on a crime which may disqualify the applicant, the time limitation may be suspended until receipt of the final disposition or proof of restoration of civil and firearm rights.¹²¹

Current law provides that when a concealed weapon or firearm license is lost or destroyed, the license becomes automatically invalid. The person to whom the license was issued is authorized to, upon payment of \$15 to DACS, obtain a duplicate, or substitute license by furnishing a notarized statement to DACS that such license has been lost or destroyed.¹²²

Effect of Proposed Changes

The bill revises requirements related to the acquisition of criminal history information, replaces the notary requirement with a sworn oath when replacing a lost or destroyed license, authorizes the tax collector to print and deliver a replacement lost or destroyed license, revises the license fees that a tax collector is required to collect, and authorizes the tax collectors to provide fingerprinting and photographing services.

The bill requires DACS, if it receives incomplete criminal history information or no final disposition on a crime, which may disqualify the applicant, to expedite efforts to acquire the:

- Final disposition or proof of restoration of civil and firearm rights, or
- Confirmation that clarifying records are not available from the jurisdiction where the criminal history originated.

Further, the bill provides that ninety days after the date of receipt of the completed application, if DACS has not acquired either the final disposition or the confirmation described above, it is required to issue the license in the absence of disqualifying information. However, such license must be immediately suspended and revoked upon receipt of disqualifying information pursuant to this section.

The bill requires a statement under oath, instead of a notarized statement, when a person is replacing a lost or destroyed concealed weapon or firearm license. According to DACS, this change is needed because neither initial or renewal applications for a license are required to be notarized; therefore, requiring notarization for replacement licenses is an unnecessary step and an inconsistency in the overall process.¹²³

The bill allows a tax collector to replace a concealed weapon or firearm license to a licensee whose license has been lost or destroyed upon the following conditions:

- Receipt of a statement under oath to DACS;
- Payment of required fees; and
- Approval and confirmation from DACS that a license is in good standing.

The bill also authorizes tax collectors to provide fingerprinting and photographing services, for a convenience fee of \$6 each, to aid concealed weapon and firearm applicants and licensees with online initial and renewal applications. Tax collectors will retain the revenues from the convenience fees.

¹¹⁹ s. 790.06, F.S.

¹²⁰ s. 790.06(6), F.S.

¹²¹ s. 790.06(6)(c)(3), F.S.

¹²² s. 790.06(9), F.S.

¹²³ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 19 (Nov. 21, 2017).

Government Impostor and Deceptive Advertisements Act (Section 51)

Present Situation

DACS receives numerous complaints from consumers and businesses that have been scammed by companies selling free government forms or mimicking government services. The U.S. Post Office currently prohibits this type of mailing of federal government forms or program offers; however, currently, the only remedy is to throw away the offending material, which does not protect unsuspecting consumers.

Effect of Proposed Changes

The bill creates the "Government Impostor and Deceptive Advertisements Act" and provides DACS with the duty and responsibility to investigate potential violations, request and obtain information regarding potential violations, seek compliance, enforce this law, and adopt rules necessary to administer this law.

Violations

The bill provides that the following acts or practices constitute a violation:

- Disseminating an advertisement that:
 - Simulates a summons, complaint, jury notice, or other court, judicial, or administrative process of any kind.
 - Represents, implies, or otherwise engages in an action that may reasonably cause confusion that the person using or employing the advertisement is a part of or associated with a governmental entity, when such is not true.
- Representing, implying, or otherwise reasonably causing confusion that goods, services, an advertisement, or an offer was disseminated by or has been approved, authorized, or endorsed, in whole or in part, by a governmental entity, when such is not true.
- Using or employing language, symbols, logos, representations, statements, titles, names, seals, emblems, insignia, trade or brand names, business or control tracking numbers, website or e-mail addresses, or any other term, symbol, or other content that represents or implies or otherwise reasonably causes confusion that goods, services, an advertisement, or an offer is from a governmental entity, when such is not true.
- Failing to provide the disclosures as required.
- Failing to timely submit to DACS written responses and answers to its inquiries concerning alleged practices inconsistent with, or in violation of, this section. Responses or answers may include, but are not limited to, copies of customer lists, invoices, receipts, or other business records.

Disclosure Requirements

The bill requires mailings, emails, or websites to contain prominent and specific disclaimers stating that the sales material are not related to any government filing and/or that the information or forms can be obtained for free or at a lesser cost from a governmental agency. Businesses are required to give consumers the name and contact information of the governmental agency.

Penalties

The bill authorizes any person who is substantially affected by a violation of this section to bring an action in a court of proper jurisdiction to enforce the provisions of this section. A person prevailing in a civil action for a violation of this section must be awarded costs, including reasonable attorney fees, and may be awarded punitive damages in addition to actual damages proven. This provision is in addition to any other remedies prescribed by law.

The bill authorizes DACS to bring one or more of the following for a violation:

- A civil action in circuit court for the following:
 - Temporary or permanent injunctive relief to enforce this section.
 - For printed advertisements and e-mail, a fine of up to \$1,000 for each separately addressed advertisement or message containing content in violation, except for failing to timely submit written responses to DACS that is received by or addressed to a state resident.
 - For websites, a fine of up to \$5,000 for each day a website with content in violation, except for failing to timely submit written responses to DACS that is published and made available to the general public.
 - For violations of failing to timely submit written responses to DACS, a fine of up to \$5,000 for each violation.
 - Recovery of restitution and damages on behalf of persons substantially affected by a violation of this section.
 - The recovery of court costs and reasonable attorney fees.
- An action for an administrative fine in the Class III category pursuant to s. 570.971, F.S., for each act or omission, which constitutes a violation under this section.

The bill authorizes DACS to terminate any investigation or action upon agreement by the alleged offender to pay a stipulated fine, make restitution, pay damages to customers, or satisfy any other relief authorized by this section. Any person in violation, except for failing to timely submit written responses to DACS, also commits an unfair and deceptive trade practice in violation of part II of chapter 501, F.S., and is subject to the penalties and remedies imposed for such violation.

Conforming Cross References (Section 52)

Present Situation

Currently, the definition for “plumbing contractor” located in the chapter of law relating to contracting cross references the outdated LP gas definition for “specialty installer” that the bill deletes.

Effect of Proposed Changes

The cross reference is changed to “specialty installer” to conform to the changes consistent with the bill.

Liquefied Petroleum Gas – Rules (Section 53)

Present Situation

In 2011, two bills passed the legislature amending s. 527.06(3) F.S., relating to rules. The two bills did not have identical language and, therefore, caused a conflict and the need for a statutory revision “note.” However, the note is outdated and no longer needed.

Effect of Proposed Changes

The bill removes superfluous implementation language from the notes section of the National Fire Protection Association provision.

B. SECTION DIRECTORY:

Section 1 Amends s. 193.461, F.S.; relating to agricultural lands; classification and assessment.

Section 2 Amends s. 379.361, F.S.; relating to the Apalachicola Bay Oyster Harvesting license.

- Section 3** Amends s. 487.041, F.S.; relating to payments of pesticide registration fees.
- Section 4** Amends s. 493.6105, F.S.; relating to initial application for licensure.
- Section 5** Amends s. 493.6113, F.S.; relating to renewal application for licensure.
- Section 6** Amends s. 496.415, F.S.; relating to prohibited acts.
- Section 7** Amends s. 496.418, F.S.; relating to recordkeeping and accounting.
- Section 8** Amends s. 500.459, F.S.; relating to water vending machines permitting requirements; operating standards.
- Section 9** Amends s. 501.059, F.S.; relating to telephonic sales calls.
- Section 10** Creates s. 501.6175, F.S.; relating to recordkeeping.
- Section 11** Amends s. 501.912, F.S.; revising the definition of antifreeze.
- Section 12** Amends s. 501.913, F.S.; revising the registration timeframe and submittal requirements.
- Section 13** Amends s. 501.917, F.S.; relating to inspections by DACS; sampling and analysis.
- Section 14** Amends s. 501.92, F.S.; revising the conditions under which a statement of formula may be required.
- Section 15** Amends s. 525.07, F.S.; relating to powers and duties of DACS; inspections; unlawful acts.
- Section 16** Amends s. 525.51, F.S.; relating to registration; renewal and fees; DACS expenses; cancellation or refusal to issue or renew.
- Section 17** Amends s. 526.53, F.S.; relating to enforcement; inspection and analysis; stop-sale and disposition; regulations.
- Section 18** Amends s. 527.01, F.S.; relating to LP gas definitions.
- Section 19** Amends s. 527.02, F.S.; relating to license; penalty; fees.
- Section 20** Amends s. 527.0201, F.S.; relating to qualifiers; master qualifiers; examinations.
- Section 21** Amends s. 527.021, F.S.; relating to registration of transport vehicles.
- Section 22** Amends s. 527.03, F.S.; relating to annual renewal of license.
- Section 23** Amends s. 527.04, F.S.; relating to proof of insurance required.
- Section 24** Amends s. 527.0605, F.S.; relating to LP gas bulk storage locations; jurisdiction.
- Section 25** Amends s. 527.065, F.S.; relating to notification of accidents; leak calls.
- Section 26** Amends s. 527.10, F.S.; relating to restriction on use of unsafe container or system.
- Section 27** Amends s. 527.21, F.S.; relating to definitions relating to Florida Propane Gas Education, Safety, and Research Act.

- Section 28** Amends s. 527.22, F.S.; relating to Florida Propane Gas Education, Safety, and Research Council established; membership; duties and responsibilities.
- Section 29** Amends s. 531.67, F.S.; relating to expiration of sections.
- Section 30** Amends s. 570.07, F.S.; relating to DACS; functions, powers, and duties.
- Section 31** Amends s. 573.111, F.S.; relating to notice of effective date of a marketing order.
- Section 32** Amends s. 578.011, F.S.; relating to definitions; Florida Seed Law.
- Section 33** Creates s. 578.012, F.S.; relating to preemption.
- Section 34** Amends s. 578.08, F.S.; relating to registrations.
- Section 35** Amends s. 578.09, F.S.; relating to label requirements.
- Section 36** Repeals s. 578.091, F.S.; relating to forest tree seed.
- Section 37** Amends s. 578.10, F.S.; relating to exemptions.
- Section 38** Amends s. 578.11, F.S.; relating to duties, authority, and rules of DACS.
- Section 39** Amends s. 578.12, F.S.; relating to stop-sale, stop-use, removal, or hold orders.
- Section 40** Amends s. 578.13, F.S.; relating to prohibitions.
- Section 41** Repeals s. 578.14, F.S.; relating to packet vegetable and flower seed.
- Section 42** Amends s. 578.181, F.S.; relating to penalties; administrative fine.
- Section 43** Amends s. 578.23, F.S.; relating to dealers' records to be kept available.
- Section 44** Amends s. 578.26, F.S.; relating to complaint, investigation, hearings, findings, and recommendation prerequisite to legal action.
- Section 45** Amends s. 578.27, F.S.; relating to seed investigation and conciliation council; composition; purpose; meetings; duties; expenses.
- Section 46** Renumbers and amends s. 578.28, F.S.; relating to seed in hermetically sealed containers.
- Section 47** Creates s. 578.29, F.S.; relating to prohibited noxious weed seed.
- Section 48** Amends s. 590.02, F.S.; relating to Florida Forest Service; powers, authority, and duties; liability; building structures; Withlacoochee Training Center.
- Section 49** Amends s. 790.06, F.S.; relating to license to carry concealed weapon or firearm.
- Section 50** Amends s. 790.0625, F.S.; relating to appointment of tax collectors to accept applications for a concealed weapon or firearm license; fees; penalties.
- Section 51** Creates s. 817.417, F.S.; relating to Government Imposter and Deceptive Advertising Act.

Section 52 Amends s. 489.105, F.S.; relating to definitions.

Section 53 Reenacts s. 527.06, F.S.; relating to rules.

Section 54 Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

DACS estimates the following total average loss in revenues as a result of the bill:

	<u>(FY 18-19)</u>	<u>(FY 19-20)</u>	<u>(FY 20-21)</u>
Transfer Oyster Harvesting Licenses to City of Apalachicola	(\$79,900)	(\$79,900)	(\$79,900)
Liquefied Petroleum Gas (Fee Collection Loss Due to License Consolidation)	(\$3,000)	(\$3,000)	(\$3,000)
Total Revenue	(\$82,900)	(\$82,900)	(\$82,900) ¹²⁴

2. Expenditures:

DACS estimates the following changes in expenditures as a result of the bill:

	<u>(FY 18-19)</u>	<u>(FY 19-20)</u>	<u>(FY 20-21)</u>
Transfer Oyster Harvesting Licenses to City of Apalachicola	(\$79,000)	(\$79,000)	(\$79,000)
Antifreeze (Increase in Sample Purchasing)	\$6,000	\$6,000	\$6,000
Gasoline and Oil Inspection (Increased shipping costs for skimming devices)	\$4,800	\$4,800	\$4,800
Brake Fluid (Increase in Sample purchasing)	\$4,370	\$4,370	\$4,370
FL Forest Service (Commercial Driver License)	\$36,000	\$36,000	\$36,000
Total Expenditures	(\$28,730)	(\$28,730)	(\$28,730)
Net Fiscal Impact to DACS	(\$54,170)	(\$54,170)	(\$54,170) ¹²⁵

DACS can absorb the fiscal impact within existing resources.

¹²⁴ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 21 (Nov. 21, 2017).

¹²⁵ *Id.* at 22.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Concealed Weapon or Firearm License

The bill authorizes tax collectors to collect three new convenience fees. The new fees include \$12 for each duplicate license issued to replace a lost or destroyed license, \$6 for fingerprinting, and \$6 for photographing services.

2. Expenditures:

Apalachicola Bay Oyster Harvesting License

Transferring administrative responsibilities of the Apalachicola Bay Oyster Harvesting license from DACS to the City of Apalachicola, and requiring the city to use or distribute proceeds from the license fees for an Apalachicola Bay oyster shell recycling program and other specified activities, will allow the City of Apalachicola to more directly control the allocation of funds for restoration activities.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill provides additional coverage under the greenbelt law for citrus pest protection structures, increased consumer protections by strengthening provisions relating to charitable contributions, telephone solicitation, and by creating the Government Imposter and Deceptive Advertisements Act; streamlines regulations relating to liquefied petroleum gas and brake fluid sampling; removes licensing barriers by allowing persons who have served as a military firearms-instructor within the last three years of military service to obtain a Class "K" firearms instructor license; and provides greater convenience for concealed weapon applicants by increasing the availability of services at authorized tax collector offices.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 9, 2018, the Agriculture & Property Rights Subcommittee adopted four amendments to HB 553 and reported the bill favorably as a committee substitute. The amendments:

- Provided that screen enclosed structures used in citrus production for pest exclusion, when consistent with DACS adopted best management practices, have no separately assessable value for purposes of ad valorem taxation;
- Clarified that the presumption of impropriety is rebuttable when expenditures of a charitable organization are not properly documented and disclosed;
- Retained the language of current law pertaining to labeling requirements of agricultural, vegetable, flower, tree, or shrub seed. The line was unintentionally struck; and
- Required seed labels for agricultural seed, including lawn and turf grass seed and mixtures, to label hybrids as hybrids.

This analysis is drafted to the CS as reported favorably by the Agriculture & Property Rights Subcommittee.

26 "telephonic sales call"; prohibiting telephone
 27 solicitors from initiating certain contact with
 28 businesses who previously communicated that they did
 29 not wish to be so contacted; creating s. 501.6175,
 30 F.S.; specifying recordkeeping requirements for
 31 commercial telephone sellers; amending s. 501.912,
 32 F.S.; revising terms; amending s. 501.913, F.S.;
 33 authorizing antifreeze brands to be registered for a
 34 specified period; deleting a provision relating to the
 35 registration of brands that are no longer in
 36 production; specifying a certified report requirement
 37 for first-time applications; amending s. 501.917,
 38 F.S.; revising department sampling and analysis
 39 requirements for antifreeze; specifying that the
 40 certificate of analysis is prima facie evidence of the
 41 facts stated therein; amending s. 501.92, F.S.;
 42 revising when the department may require an antifreeze
 43 formula for analysis; amending s. 525.07, F.S.;
 44 authorizing the department to seize skimming devices
 45 without a warrant; amending s. 526.51, F.S.; revising
 46 application requirements and fees for brake fluid
 47 brands; deleting a provision relating to the
 48 registration of brands that are no longer in
 49 production; amending s. 526.53, F.S.; revising
 50 department sampling and analysis requirements for

51 | brake fluid; specifying that the certificate of
 52 | analysis is prima facie evidence of the facts stated
 53 | therein; amending s. 527.01, F.S.; revising terms;
 54 | amending s. 527.02, F.S.; revising the persons subject
 55 | to liquefied petroleum business licensing provisions;
 56 | revising such licensing fees and requirements;
 57 | revising reporting and fee requirements for certain
 58 | material changes to license information; deleting a
 59 | provision authorizing license transfers; amending s.
 60 | 527.0201, F.S.; revising the persons subject to
 61 | liquefied petroleum qualifier competency examination,
 62 | registry, supervisory, and employment requirements;
 63 | revising the expiration of qualifier registrations;
 64 | revising the persons subject to master qualifier
 65 | requirements; revising master qualifier application
 66 | requirements; deleting provisions specifying that a
 67 | failure to replace master qualifiers within certain
 68 | periods constitutes grounds for license revocation;
 69 | deleting a provision relating to facsimile
 70 | transmission of duplicate licenses; amending s.
 71 | 527.021, F.S.; revising the circumstances under which
 72 | liquefied petroleum gas bulk delivery vehicles must be
 73 | registered with the department; amending s. 527.03,
 74 | F.S.; authorizing certain liquefied petroleum gas
 75 | registrations to be renewed for 2 or 3 years; deleting

76 certain renewal period requirements; amending s.
 77 527.04, F.S.; revising the persons required to provide
 78 the department with proof of insurance; revising the
 79 required payee for a bond in lieu of such insurance;
 80 amending s. 527.0605, F.S.; deleting provisions
 81 requiring licensees to submit a site plan and review
 82 fee for liquefied petroleum bulk storage container
 83 locations; amending s. 527.065, F.S.; revising the
 84 circumstances under which a liquefied petroleum gas
 85 licensee must notify the department of an accident;
 86 amending ss. 527.10 and 527.21, F.S.; conforming
 87 provisions to changes made by the act; amending s.
 88 527.22, F.S.; deleting an obsolete provision; amending
 89 s. 531.67, F.S.; extending the expiration date of
 90 certain provisions relating to permits for
 91 commercially operated or tested weights or measures
 92 instruments or devices; amending s. 570.07, F.S.;
 93 authorizing the department to waive certain fees
 94 during a state of emergency; amending s. 573.111,
 95 F.S.; revising the required posting location for the
 96 issuance of an agricultural commodity marketing order;
 97 amending s. 578.011, F.S.; revising and defining
 98 terms; creating s. 578.012, F.S.; providing
 99 legislative intent; creating a preemption of local law
 100 relating to regulation of seed; amending s. 578.08,

101 F.S.; revising application requirements for the
 102 registration of seed dealers; conforming provisions to
 103 changes made by the act; specifying that a receipt
 104 from the department need not be written to constitute
 105 a permit; deleting an exception to registration
 106 requirements for certain experiment stations;
 107 requiring the payment of fees when packet seed is
 108 placed into commerce; amending s. 578.09, F.S.;
 109 revising labeling requirements for agricultural,
 110 vegetable, flower, tree, and shrub seeds; conforming a
 111 cross-reference; repealing s. 578.091, F.S., relating
 112 to labeling of forest tree seed; amending s. 578.10,
 113 F.S.; revising exemptions to seed labeling, sale, and
 114 solicitation requirements; amending s. 578.11, F.S.;
 115 conforming provisions to changes made by the act;
 116 making technical changes; amending s. 578.12, F.S.;
 117 conforming provisions to changes made by the act;
 118 amending s. 578.13, F.S.; conforming provisions to
 119 changes made by the act; specifying that it is
 120 unlawful to move, handle, or dispose of seeds or tags
 121 under a stop-sale notice or order without permission
 122 from the department; specifying that it is unlawful to
 123 represent seed as certified except under specified
 124 conditions or to label seed with a variety name under
 125 certain conditions; repealing s. 578.14, F.S.,

126 relating to packet vegetable and flower seed; amending
 127 s. 578.181, F.S.; revising penalties; amending s.
 128 578.23, F.S.; revising recordkeeping requirements
 129 relating to seed labeling; amending s. 578.26, F.S.;
 130 conforming provisions to changes made by the act;
 131 specifying that certain persons may not commence legal
 132 proceedings or make certain claims against a seed
 133 dealer before certain findings and recommendations are
 134 transmitted by the seed investigation and conciliation
 135 council to the complainant and dealer; deleting a
 136 requirement that the department transmit such findings
 137 and recommendations to complainants and dealers;
 138 requiring the department to mail a copy of the
 139 council's procedures to both parties upon receipt of a
 140 complaint; amending s. 578.27, F.S.; removing
 141 alternate membership from the seed investigation and
 142 conciliation council; revising the terms of members of
 143 the council; conforming provisions to changes made by
 144 the act; revising the purpose of the council; revising
 145 the council's investigatory process; renumbering and
 146 amending s. 578.28, F.S.; making a technical change;
 147 creating s. 578.29, F.S.; prohibiting certain noxious
 148 weed seed from being offered or exposed for sale;
 149 amending s. 590.02, F.S.; authorizing the Florida
 150 Forest Service to pay certain employees' initial

151 commercial driver license examination fees; amending
 152 s. 790.06, F.S.; revising required department handling
 153 of incomplete criminal history information in relation
 154 to licensure to carry concealed firearms; revising the
 155 required furnished statement to obtain a duplicate or
 156 substitute concealed weapon or firearm license;
 157 amending s. 790.0625, F.S.; revising required tax
 158 collector collection and remittance of firearm license
 159 fees; revising the fees which a tax collector may
 160 retain; authorizing certain tax collectors to print
 161 and deliver certain replacement licenses under certain
 162 conditions; authorizing certain tax collectors to
 163 offer fingerprinting and photographing services to aid
 164 license applicants; creating s. 817.417, F.S.;
 165 providing a short title; defining terms; specifying
 166 department duties and responsibilities relating to
 167 government impostor and deceptive advertisements;
 168 requiring rulemaking by the department; specifying
 169 that it is a violation to disseminate certain
 170 misleading or confusing advertisements, to make
 171 certain misleading or confusing representations, to
 172 use content implying or leading to confusion that such
 173 content is from a governmental entity when such is not
 174 true, to fail to provide certain disclosures, and to
 175 fail to provide certain responses and answers to the

176 department; requiring a person offering documents that
 177 are available free of charge or at a lesser price from
 178 a governmental entity to provide a certain disclosure;
 179 providing penalties; amending s. 489.105, F.S.;
 180 conforming provisions to changes made by the act;
 181 reenacting s. 527.06(3), F.S., relating to published
 182 standards of the National Fire Protection Association;
 183 providing an effective date.

184

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

186

187 Section 1. Paragraph (c) of subsection (6) of section
 188 193.461, Florida Statutes, is amended to read:

189 193.461 Agricultural lands; classification and assessment;
 190 mandated eradication or quarantine program.—

191 (6)

192 (c)1. For purposes of the income methodology approach to
 193 assessment of property used for agricultural purposes,
 194 irrigation systems, including pumps and motors, physically
 195 attached to the land shall be considered a part of the average
 196 yields per acre and shall have no separately assessable
 197 contributory value.

198 2. Litter containment structures located on producing
 199 poultry farms and animal waste nutrient containment structures
 200 located on producing dairy farms shall be assessed by the

201 methodology described in subparagraph 1.

202 3. Structures or improvements used in horticultural
 203 production for frost or freeze protection and screen enclosed
 204 structures used in citrus production for pest exclusion, which
 205 are consistent with the interim measures or best management
 206 practices adopted by the Department of Agriculture and Consumer
 207 Services pursuant to s. 570.93 or s. 403.067(7)(c), shall be
 208 assessed by the methodology described in subparagraph 1.

209 Section 2. Paragraphs (b), (d), and (i) of subsection (5)
 210 of section 379.361, Florida Statutes, are amended to read:

211 379.361 Licenses.—

212 (5) APALACHICOLA BAY OYSTER HARVESTING LICENSE.—

213 (b) A ~~No~~ person may not ~~shall~~ harvest oysters from the
 214 Apalachicola Bay without a valid Apalachicola Bay oyster
 215 harvesting license issued by the City of Apalachicola ~~Department~~
 216 ~~of Agriculture and Consumer Services~~. This requirement does
 217 ~~shall~~ not apply to anyone harvesting noncommercial quantities of
 218 oysters in accordance with commission rules, or to any person
 219 less than 18 years old.

220 (d) The City of Apalachicola ~~Department of Agriculture and~~
 221 ~~Consumer Services~~ shall collect an annual fee of \$100 from state
 222 residents and \$500 from nonresidents for the issuance of an
 223 Apalachicola Bay oyster harvesting license. The license year
 224 shall begin on July 1 of each year and end on June 30 of the
 225 following year. The license shall be valid only for the

226 licensee. Only bona fide residents of the state Florida may
 227 obtain a resident license pursuant to this subsection.

228 (i) The proceeds from Apalachicola Bay oyster harvesting
 229 license fees shall be deposited by the City of Apalachicola into
 230 a trust account ~~in the General Inspection Trust Fund~~ and, less
 231 reasonable administrative costs, must ~~shall~~ be used or
 232 distributed by the City of Apalachicola ~~Department of~~
 233 ~~Agriculture and Consumer Services~~ for the following purposes in
 234 Apalachicola Bay:

235 1. An Apalachicola Bay oyster shell recycling program
 236 ~~Relaying and transplanting live oysters.~~

237 2. Shell planting to construct or rehabilitate oyster
 238 bars.

239 3. Education programs for licensed oyster harvesters on
 240 oyster biology, aquaculture, boating and water safety,
 241 sanitation, resource conservation, small business management,
 242 marketing, and other relevant subjects.

243 4. Research directed toward the enhancement of oyster
 244 production in the bay and the water management needs of the bay.

245 Section 3. Paragraphs (a), (b), and (i) of subsection (1)
 246 of section 487.041, Florida Statutes, are amended to read:

247 487.041 Registration.—

248 (1)(a) ~~Effective January 1, 2009,~~ Each brand of pesticide,
 249 as defined in s. 487.021, which is distributed, sold, or offered
 250 for sale, except as provided in this section, within this state

251 or delivered for transportation or transported in intrastate
 252 commerce or between points within this state through any point
 253 outside this state must be registered in the office of the
 254 department, and such registration shall be renewed biennially.
 255 Emergency exemptions from registration may be authorized in
 256 accordance with the rules of the department. The registrant
 257 shall file with the department a statement including:

258 1. The name, business mailing address, and street address
 259 of the registrant.

260 2. The name of the brand of pesticide.

261 3. An ingredient statement and a complete current copy of
 262 the labeling accompanying the brand of pesticide, which must
 263 conform to the registration, and a statement of all claims to be
 264 made for it, including directions for use and a guaranteed
 265 analysis showing the names and percentages by weight of each
 266 active ingredient, the total percentage of inert ingredients,
 267 and the names and percentages by weight of each "added
 268 ingredient."

269 (b) ~~Effective January 1, 2009,~~ For the purpose of
 270 defraying expenses of the department in connection with carrying
 271 out the provisions of this part, each registrant shall pay a
 272 biennial registration fee for each registered brand of
 273 pesticide. The registration of each brand of pesticide shall
 274 cover a designated 2-year period beginning on January 1 of each
 275 odd-numbered year and expiring on December 31 of the following

276 year.

277 ~~(i) Effective January 1, 2013, all payments of any~~
 278 ~~pesticide registration fees, including late fees, shall be~~
 279 ~~submitted electronically using the department's Internet website~~
 280 ~~for registration of pesticide product brands.~~

281 Section 4. Paragraph (a) of subsection (6) of section
 282 493.6105, Florida Statutes, is amended to read:

283 493.6105 Initial application for license.—

284 (6) In addition to the requirements under subsection (3),
 285 an applicant for a Class "K" license must:

286 (a) Submit one of the following:

287 1. The Florida Criminal Justice Standards and Training
 288 Commission Instructor Certificate and written confirmation by
 289 the commission that the applicant possesses an active firearms
 290 certification.

291 2. A valid National Rifle Association Private Security
 292 Firearm Instructor Certificate issued not more than 3 years
 293 before the submission of the applicant's Class "K" application.

294 3. A valid firearms instructor certificate issued by a
 295 federal law enforcement agency issued not more than 3 years
 296 before the submission of the applicant's Class "K" application.

297 4. A valid DD form 214 issued by the United States
 298 Department of Defense, an acceptable form as specified by the
 299 Department of Veterans' Affairs, or other official military
 300 documentation. Such form or documentation must be issued not

301 more than 3 years before the submission of the applicant's Class
 302 "K" application, indicating that the applicant has been
 303 honorably discharged and has served as a military firearms
 304 instructor within the last 3 years of service.

305 Section 5. Paragraph (d) of subsection (3) of section
 306 493.6113, Florida Statutes, is amended to read:

307 493.6113 Renewal application for licensure.—

308 (3) Each licensee is responsible for renewing his or her
 309 license on or before its expiration by filing with the
 310 department an application for renewal accompanied by payment of
 311 the renewal fee and the fingerprint retention fee to cover the
 312 cost of ongoing retention in the statewide automated biometric
 313 identification system established in s. 943.05(2)(b). Upon the
 314 first renewal of a license issued under this chapter before
 315 January 1, 2017, the licensee shall submit a full set of
 316 fingerprints and fingerprint processing fees to cover the cost
 317 of entering the fingerprints into the statewide automated
 318 biometric identification system pursuant to s. 493.6108(4)(a)
 319 and the cost of enrollment in the Federal Bureau of
 320 Investigation's national retained print arrest notification
 321 program. Subsequent renewals may be completed without submission
 322 of a new set of fingerprints.

323 (d) Each Class "K" licensee shall additionally submit:

324 1. One of the certificates specified under s. 493.6105(6)
 325 as proof that he or she remains certified to provide firearms

326 instruction; or

327 2. Proof of having taught no less than six 28-hour
 328 firearms instruction courses to Class "G" applicants, as
 329 specified in s. 493.6105(5), during the previous triennial
 330 licensure period.

331 Section 6. Subsection (19) is added to section 496.415,
 332 Florida Statutes, to read:

333 496.415 Prohibited acts.—It is unlawful for any person in
 334 connection with the planning, conduct, or execution of any
 335 solicitation or charitable or sponsor sales promotion to:

336 (19) Commingle charitable contributions with noncharitable
 337 funds.

338 Section 7. Section 496.418, Florida Statutes, is amended
 339 to read:

340 496.418 Recordkeeping and accounting Records.—

341 (1) Each charitable organization, sponsor, professional
 342 fundraising consultant, and professional solicitor that collects
 343 or takes control or possession of contributions made for a
 344 charitable purpose must keep records to permit accurate
 345 reporting and auditing as required by law, must not commingle
 346 contributions with noncharitable funds as specified in s.
 347 496.415(19), and must be able to account for the funds. When
 348 expenditures are not properly documented and disclosed by
 349 records, there exists a rebuttable presumption that the
 350 charitable organization, sponsor, professional fundraising

351 consultant, or professional solicitor did not properly expend
 352 such funds. Noncharitable funds include any funds that are not
 353 used or intended to be used for the operation of the charity or
 354 for charitable purposes.

355 (2) Each charitable organization, sponsor, professional
 356 fundraising consultant, and professional solicitor must keep for
 357 a period of at least 3 years true and accurate records as to its
 358 activities in this state which are covered by ss. 496.401-
 359 496.424. The records must be made available, without subpoena,
 360 to the department for inspection and must be furnished no later
 361 than 10 working days after requested.

362 Section 8. Paragraph (b) of subsection (3) and paragraph
 363 (i) of subsection (5) of section 500.459, Florida Statutes, are
 364 amended to read:

365 500.459 Water vending machines.—

366 (3) PERMITTING REQUIREMENTS.—

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

374 (5) OPERATING STANDARDS.—

375 (i) The operator shall place on each water vending

376 machine, in a position clearly visible to customers, the
 377 following information: the name and address of the operator; ~~the~~
 378 ~~operating permit number;~~ the fact that the water is obtained
 379 from a public water supply; the method of treatment used; the
 380 method of postdisinfection used; and a local or toll-free
 381 telephone number that may be called for obtaining further
 382 information, reporting problems, or making complaints.

383 Section 9. Paragraph (g) of subsection (1) and subsection
 384 (5) of section 501.059, Florida Statutes, are amended to read:

385 501.059 Telephone solicitation.-

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

387 (g) "Telephonic sales call" means a telephone call,
 388 ringless direct-to-voicemail delivery, or text message to a
 389 consumer for the purpose of soliciting a sale of any consumer
 390 goods or services, soliciting an extension of credit for
 391 consumer goods or services, or obtaining information that will
 392 or may be used for the direct solicitation of a sale of consumer
 393 goods or services or an extension of credit for such purposes.

394 (5) A telephone solicitor or other person may not initiate
 395 an outbound telephone call or text message to a consumer,
 396 business, or donor or potential donor who has previously
 397 communicated to the telephone solicitor or other person that he
 398 or she does not wish to receive an outbound telephone call or
 399 text message:

400 (a) Made by or on behalf of the seller whose goods or

401 services are being offered; or

402 (b) Made on behalf of a charitable organization for which
 403 a charitable contribution is being solicited.

404 Section 10. Section 501.6175, Florida Statutes, is created
 405 to read:

406 501.6175 Recordkeeping.—A commercial telephone seller
 407 shall keep all of the following information for 2 years after
 408 the date the information first becomes part of the seller's
 409 business records:

410 (1) The name and telephone number of each consumer
 411 contacted by a telephone sales call.

412 (2) All express requests authorizing the telephone
 413 solicitor to contact the consumer.

414 (3) Any script, outline, or presentation the applicant
 415 requires or suggests a salesperson use when soliciting; sales
 416 information or literature to be provided by the commercial
 417 telephone seller to a salesperson; and sales information or
 418 literature to be provided by the commercial telephone seller to
 419 a consumer in connection with any solicitation.

420
 421 Within 10 days of an oral or written request by the department,
 422 including a written request transmitted by electronic mail, a
 423 commercial telephone seller must make the records it keeps
 424 pursuant to this section available for inspection and copying by
 425 the department during the department's normal business hours.

426 This section does not limit the department's ability to inspect
 427 and copy material pursuant to any other law.

428 Section 11. Section 501.912, Florida Statutes, is amended
 429 to read:

430 501.912 Definitions.—As used in ss. 501.91-501.923:

431 (1) "Antifreeze" means any substance or preparation,
 432 including, but not limited to, antifreeze-coolant, antifreeze
 433 and summer coolant, or summer coolant, that is sold,
 434 distributed, or intended for use:

435 (a) As the cooling liquid, or to be added to the cooling
 436 liquid, in the cooling system of internal combustion engines of
 437 motor vehicles to prevent freezing of the cooling liquid or to
 438 lower its freezing point; or

439 (b) To raise the boiling point of water or for the
 440 prevention of engine overheating, whether or not the liquid is
 441 used as a year-round cooling system fluid.

442 ~~(2) "Antifreeze coolant," "antifreeze and summer coolant,"~~
 443 ~~or "summer coolant" means any substance as defined in subsection~~
 444 ~~(1) which also is sold, distributed, or intended for raising the~~
 445 ~~boiling point of water or for the prevention of engine~~
 446 ~~overheating whether or not used as a year-round cooling system~~
 447 ~~fluid. Unless otherwise stated, the term "antifreeze" includes~~
 448 ~~"antifreeze," "antifreeze coolant," "antifreeze and summer~~
 449 ~~coolant," and "summer coolant."~~

450 (2) ~~(3)~~ "Department" means the Department of Agriculture

451 and Consumer Services.

452 ~~(3)(4)~~ "Distribute" means to hold with an intent to sell,
 453 offer for sale, sell, barter, or otherwise supply to the
 454 consumer.

455 ~~(4)(5)~~ "Package" means a sealed, tamperproof retail
 456 package, drum, or other container designed for the sale of
 457 antifreeze directly to the consumer or a container from which
 458 the antifreeze may be installed directly by the seller into the
 459 cooling system. However, this term, ~~but~~ does not include
 460 shipping containers containing properly labeled inner
 461 containers.

462 ~~(5)(6)~~ "Label" means any display of written, printed, or
 463 graphic matter on, or attached to, a package or to the outside
 464 individual container or wrapper of the package.

465 ~~(6)(7)~~ "Labeling" means the labels and any other written,
 466 printed, or graphic matter accompanying a package.

467 Section 12. Section 501.913, Florida Statutes, is amended
 468 to read:

469 501.913 Registration.—

470 (1) Each brand of antifreeze to be distributed in this
 471 state must ~~shall~~ be registered with the department before
 472 distribution. The person whose name appears on the label, the
 473 manufacturer, or the packager shall make application annually or
 474 biennially to the department on forms provided by the
 475 department. The registration certificate expires ~~shall expire~~ 12

476 or 24 months after the date of issue, as indicated on the
 477 registration certificate. The registrant assumes, by application
 478 to register the brand, full responsibility for the registration,
 479 quality, and quantity of the product sold, offered, or exposed
 480 for sale in this state. ~~If a registered brand is not in~~
 481 ~~production for distribution in this state and to ensure any~~
 482 ~~remaining product that is still available for sale in the state~~
 483 ~~is properly registered, the registrant must submit a notarized~~
 484 ~~affidavit on company letterhead to the department certifying~~
 485 ~~that:~~

- 486 ~~(a) The stated brand is no longer in production;~~
- 487 ~~(b) The stated brand will not be distributed in this~~
 488 ~~state; and~~
- 489 ~~(c) All existing product of the stated brand will be~~
 490 ~~removed by the registrant from the state within 30 days after~~
 491 ~~expiration of the registration or the registrant will reregister~~
 492 ~~the brand for two subsequent registration periods.~~

493
 494 ~~If production resumes, the brand must be reregistered before it~~
 495 ~~is distributed in this state.~~

- 496 (2) The completed application shall be accompanied by:
- 497 (a) Specimens or copies ~~faesimiles~~ of the label for each
 498 brand of antifreeze;
- 499 (b) An application fee of \$200 for a 12-month registration
 500 or \$400 for a 24-month registration for each brand of

501 antifreeze; and

502 (c) For first-time applications, a certified report from
 503 an independent testing laboratory, dated no more than 6 months
 504 before the registration application, providing analysis showing
 505 that the antifreeze conforms to minimum standards required for
 506 antifreeze by this part or rules of the department and is not
 507 adulterated ~~A properly labeled sample of between 1 and 2 gallons~~
 508 ~~for each brand of antifreeze.~~

509 (3) The department may analyze or inspect the antifreeze
 510 to ensure that it:

511 (a) Meets the labeling claims;

512 (b) Conforms to minimum standards required for antifreeze
 513 by this part ~~chapter~~ or rules of the department; and

514 (c) Is not adulterated as prescribed for antifreeze by
 515 this part ~~chapter~~.

516 (4)(a) If the registration requirements are met, and, if
 517 the antifreeze meets the minimum standards, is not adulterated,
 518 and meets the labeling claims, the department shall issue a
 519 certificate of registration authorizing the distribution of that
 520 antifreeze in the state for the permit period ~~year~~.

521 (b) If registration requirements are not met, or, if the
 522 antifreeze fails to meet the minimum standards, is adulterated,
 523 or fails to meet the labeling claims, the department shall
 524 refuse to register the antifreeze.

525 Section 13. Section 501.917, Florida Statutes, is amended

526 to read:

527 501.917 Inspection by department; sampling and analysis.—

528 The department has ~~shall have~~ the right to have access at
 529 reasonable hours to all places and property where antifreeze is
 530 stored, distributed, or offered or intended to be offered for
 531 sale, including the right to inspect and examine all antifreeze
 532 and to take reasonable samples of antifreeze for analysis
 533 together with specimens of labeling. Collected samples must be
 534 analyzed by the department. The certificate of analysis by the
 535 department shall be prima facie evidence of the facts stated
 536 therein in any legal proceeding in this state ~~All samples taken~~
 537 ~~shall be properly sealed and sent to a laboratory designated by~~
 538 ~~the department for examination together with all labeling~~
 539 ~~pertaining to such samples. It shall be the duty of said~~
 540 ~~laboratory to examine promptly all samples received in~~
 541 ~~connection with the administration and enforcement of this act.~~

542 Section 14. Section 501.92, Florida Statutes, is amended
 543 to read:

544 501.92 Formula may be required.—The department may, if
 545 required for the analysis of antifreeze by ~~the laboratory~~
 546 ~~designated by the department for the purpose of registration,~~
 547 require the applicant to furnish a statement of the formula of
 548 such antifreeze, unless the applicant can furnish other
 549 satisfactory evidence that such antifreeze is not adulterated or
 550 misbranded. Such statement need not include inhibitor or other

551 minor ingredients which total less than 5 percent by weight of
552 the antifreeze; and, if over 5 percent, the composition of the
553 inhibitor and such other ingredients may be given in generic
554 terms.

555 Section 15. Paragraph (e) of subsection (10) of section
556 525.07, Florida Statutes, is redesignated as paragraph (f), and
557 a new paragraph (e) is added to that subsection, to read:

558 525.07 Powers and duties of department; inspections;
559 unlawful acts.—

560 (10)

561 (e) The department may seize without warrant any skimming
562 device, as defined in s. 817.625, for use as evidence.

563 Section 16. Subsection (1) of section 526.51, Florida
564 Statutes, is amended to read:

565 526.51 Registration; renewal and fees; departmental
566 expenses; cancellation or refusal to issue or renew.—

567 (1)(a) Application for registration of each brand of brake
568 fluid shall be made on forms supplied by the department. The
569 applicant shall give his or her name and address and the brand
570 name of the brake fluid, state that he or she owns the brand
571 name and has complete control over the product sold thereunder
572 in this state, and provide the name and address of the resident
573 agent in this state. If the applicant does not own the brand
574 name but wishes to register the product with the department, a
575 notarized affidavit that gives the applicant full authorization

576 to register the brand name and that is signed by the owner of
 577 the brand name must accompany the application for registration.
 578 The affidavit must include all affected brand names, the owner's
 579 company or corporate name and address, the applicant's company
 580 or corporate name and address, and a statement from the owner
 581 authorizing the applicant to register the product with the
 582 department. The owner of the brand name shall maintain complete
 583 control over each product sold under that brand name in this
 584 state.

585 (b) The completed application must be accompanied by the
 586 following:

587 1. Specimens or copies of the label for each brand of
 588 brake fluid.

589 2. An application fee of \$50 for a 12-month registration
 590 or \$100 for a 24-month registration for each brand of brake
 591 fluid.

592 3. For All first-time applications for a brand and formula
 593 combination, ~~must be accompanied by~~ a certified report from an
 594 independent testing laboratory, dated no more than 6 months
 595 before the registration application, setting forth the analysis
 596 of the brake fluid which shows its quality to be not less than
 597 the specifications established by the department for brake
 598 fluids. ~~A sample of not less than 24 fluid ounces of brake fluid~~
 599 ~~shall be submitted, in a container with a label printed in the~~
 600 ~~same manner that it will be labeled when sold, and the sample~~

601 ~~and container shall be analyzed and inspected by the department~~
 602 ~~in order that compliance with the department's specifications~~
 603 ~~and labeling requirements may be verified.~~

604
 605 Upon approval of the application, the department shall register
 606 the brand name of the brake fluid and issue to the applicant a
 607 permit authorizing the registrant to sell the brake fluid in
 608 this state. The registration certificate expires ~~shall expire~~ 12
 609 or 24 months after the date of issue, as indicated on the
 610 registration certificate.

611 (c) ~~(b)~~ ~~Each applicant shall pay a fee of \$100 with each~~
 612 ~~application.~~ A permit may be renewed by application to the
 613 department, accompanied by a renewal fee of \$50 for a 12-month
 614 registration, or \$100 for a 24-month registration, on or before
 615 the expiration of the previously issued permit. To reregister a
 616 previously registered brand and formula combination, an
 617 applicant must submit a completed application and all materials
 618 as required in this section to the department before the
 619 expiration of the previously issued permit. A brand and formula
 620 combination for which a completed application and all materials
 621 required in this section are not received before the expiration
 622 of the previously issued permit may not be registered with the
 623 department until a completed application and all materials
 624 required in this section have been received and approved. If the
 625 brand and formula combination was previously registered with the

626 department and a fee, application, or materials required in this
 627 section are received after the expiration of the previously
 628 issued permit, a penalty of \$25 accrues, which shall be added to
 629 the fee. Renewals shall be accepted only on brake fluids that
 630 have no change in formula, composition, or brand name. Any
 631 change in formula, composition, or brand name of a brake fluid
 632 constitutes a new product that must be registered in accordance
 633 with this part.

634 ~~(c) If a registered brand and formula combination is no~~
 635 ~~longer in production for distribution in this state, in order to~~
 636 ~~ensure that any remaining product still available for sale in~~
 637 ~~this state is properly registered, the registrant must submit a~~
 638 ~~notarized affidavit on company letterhead to the department~~
 639 ~~certifying that:~~

640 ~~1. The stated brand and formula combination is no longer~~
 641 ~~in production;~~

642 ~~2. The stated brand and formula combination will not be~~
 643 ~~distributed in this state; and~~

644 ~~3. Either all existing product of the stated brand and~~
 645 ~~formula combination will be removed by the registrant from the~~
 646 ~~state within 30 days after the expiration of the registration or~~
 647 ~~that the registrant will reregister the brand and formula~~
 648 ~~combination for 2 subsequent years.~~

649
 650 ~~If production resumes, the brand and formula combination must be~~

651 ~~reregistered before it is again distributed in this state.~~

652 Section 17. Subsection (1) of section 526.53, Florida
653 Statutes, is amended to read:

654 526.53 Enforcement; inspection and analysis, stop-sale and
655 disposition, regulations.—

656 (1) The department shall enforce ~~the provisions of this~~
657 part through the department, and may sample, inspect, analyze,
658 and test any brake fluid manufactured, packed, or sold within
659 this state. Collected samples must be analyzed by the
660 department. The certificate of analysis by the department shall
661 be prima facie evidence of the facts stated therein in any legal
662 proceeding in this state. The department ~~has~~ shall have free
663 access during business hours to all premises, buildings,
664 vehicles, cars, or vessels used in the manufacture, packing,
665 storage, sale, or transportation of brake fluid, and may open
666 any box, carton, parcel, or container of brake fluid and take
667 samples for inspection and analysis or for evidence.

668 Section 18. Section 527.01, Florida Statutes, is amended
669 to read:

670 527.01 Definitions.—As used in this chapter:

671 (1) "Liquefied petroleum gas" means any material which is
672 composed predominantly of any of the following hydrocarbons, or
673 mixtures of the same: propane, propylene, butanes (normal butane
674 or isobutane), and butylenes.

675 (2) "Person" means any individual, firm, partnership,

676 corporation, company, association, organization, or cooperative.

677 (3) "~~Ultimate~~ Consumer" means the person last purchasing
 678 liquefied petroleum gas in its liquid or vapor state for
 679 industrial, commercial, or domestic use.

680 (4) "Department" means the Department of Agriculture and
 681 Consumer Services.

682 (5) "Qualifier" means any person who has passed a
 683 competency examination administered by the department and is
 684 employed by a licensed category I, category II, or category V
 685 business. ~~in one or more of the following classifications:~~

- 686 ~~(a) Category I liquefied petroleum gas dealer.~~
- 687 ~~(b) Category II liquefied petroleum gas dispenser.~~
- 688 ~~(c) LP gas installer.~~
- 689 ~~(d) Specialty installer.~~
- 690 ~~(e) Requalifier of cylinders.~~
- 691 ~~(f) Fabricator, repairer, and tester of vehicles and cargo~~
 692 ~~tanks.~~
- 693 ~~(g) Category IV liquefied petroleum gas dispensing unit~~
 694 ~~operator and recreational vehicle servicer.~~
- 695 ~~(h) Category V liquefied petroleum gases dealer for~~
 696 ~~industrial uses only.~~

697 (6) "Category I liquefied petroleum gas dealer" means any
 698 person selling or offering to sell by delivery or at a
 699 stationary location any liquefied petroleum gas to the ~~ultimate~~
 700 consumer for industrial, commercial, or domestic use; any person

701 leasing or offering to lease, or exchanging or offering to
 702 exchange, any apparatus, appliances, and equipment for the use
 703 of liquefied petroleum gas; any person installing, servicing,
 704 altering, or modifying apparatus, piping, tubing, appliances,
 705 and equipment for the use of liquefied petroleum or natural gas;
 706 any person installing carburetion equipment; or any person
 707 requalifying cylinders.

708 (7) "Category II liquefied petroleum gas dispenser" means
 709 any person engaging in the business of operating a liquefied
 710 petroleum gas dispensing unit for the purpose of serving liquid
 711 products to the ~~ultimate~~ consumer for industrial, commercial, or
 712 domestic use, and selling or offering to sell, or leasing or
 713 offering to lease, apparatus, appliances, and equipment for the
 714 use of liquefied petroleum gas, including maintaining a cylinder
 715 storage rack at the licensed business location for the purpose
 716 of storing cylinders filled by the licensed business for sale or
 717 use at a later date.

718 (8) "Category III liquefied petroleum gas cylinder
 719 exchange operator" means any person operating a storage facility
 720 used for the purpose of storing filled propane cylinders of not
 721 more than 43.5 pounds propane capacity or 104 pounds water
 722 capacity, while awaiting sale to the ~~ultimate~~ consumer, or a
 723 facility used for the storage of empty or filled containers
 724 which have been offered for exchange.

725 (9) "Category IV dealer in appliances and equipment

726 ~~liquefied petroleum gas dispenser and recreational vehicle~~
 727 ~~servicer" means any person selling or offering to sell, or~~
 728 ~~leasing or offering to lease, apparatus, appliances, and~~
 729 ~~equipment for the use of liquefied petroleum gas engaging in the~~
 730 ~~business of operating a liquefied petroleum gas dispensing unit~~
 731 ~~for the purpose of serving liquid product to the ultimate~~
 732 ~~consumer for industrial, commercial, or domestic use, and~~
 733 ~~selling or offering to sell, or leasing or offering to lease,~~
 734 ~~apparatus, appliances, and equipment for the use of liquefied~~
 735 ~~petroleum gas, and whose services include the installation,~~
 736 ~~service, or repair of recreational vehicle liquefied petroleum~~
 737 ~~gas appliances and equipment.~~

738 (10) "Category V LP gas installer" means any person who is
 739 engaged in the liquefied petroleum gas business and whose
 740 services include the installation, servicing, altering, or
 741 modifying of apparatus, piping, tubing, tanks, and equipment for
 742 the use of liquefied petroleum or natural gas and selling or
 743 offering to sell, or leasing or offering to lease, apparatus,
 744 appliances, and equipment for the use of liquefied petroleum or
 745 natural gas.

746 (11) "Category VI miscellaneous operator" means any person
 747 who is engaged in operation as a manufacturer of LP gas
 748 appliances and equipment; a fabricator, repairer, and tester of
 749 vehicles and cargo tanks; a regualifier of LP gas cylinders; or
 750 a pipeline system operator ~~Specialty installer" means any person~~

751 ~~involved in the installation, service, or repair of liquefied~~
 752 ~~petroleum or natural gas appliances and equipment, and selling~~
 753 ~~or offering to sell, or leasing or offering to lease, apparatus,~~
 754 ~~appliances, and equipment for the use of liquefied petroleum~~
 755 ~~gas, whose activities are limited to specific types of~~
 756 ~~appliances and equipment as designated by department rule.~~

757 ~~(12) "Dealer in appliances and equipment for use of~~
 758 ~~liquefied petroleum gas" means any person selling or offering to~~
 759 ~~sell, or leasing or offering to lease, apparatus, appliances,~~
 760 ~~and equipment for the use of liquefied petroleum gas.~~

761 (12)~~(13)~~ "Manufacturer of liquefied petroleum gas
 762 appliances and equipment" means any person in this state
 763 manufacturing and offering for sale or selling tanks, cylinders,
 764 or other containers and necessary appurtenances for use in the
 765 storage, transportation, or delivery of such gas to the ~~ultimate~~
 766 consumer, or manufacturing and offering for sale or selling
 767 apparatus, appliances, and equipment for the use of liquefied
 768 petroleum gas to the ~~ultimate~~ consumer.

769 (13)~~(14)~~ "Wholesaler" means any person, as defined by
 770 subsection (2), selling or offering to sell any liquefied
 771 petroleum gas for industrial, commercial, or domestic use to any
 772 person except the ~~ultimate~~ consumer.

773 (14)~~(15)~~ "Requalifier of cylinders" means any person
 774 involved in the retesting, repair, qualifying, or requalifying
 775 of liquefied petroleum gas tanks or cylinders manufactured under

776 specifications of the United States Department of Transportation
 777 ~~or former Interstate Commerce Commission.~~

778 (15)~~(16)~~ "Fabricator, repairer, and tester of vehicles and
 779 cargo tanks" means any person involved in the hydrostatic
 780 testing, fabrication, repair, or requalifying of any motor
 781 vehicles or cargo tanks used for the transportation of liquefied
 782 petroleum gases, when such tanks are permanently attached to or
 783 forming a part of the motor vehicle.

784 ~~(17) "Recreational vehicle" means a motor vehicle designed~~
 785 ~~to provide temporary living quarters for recreational, camping,~~
 786 ~~or travel use, which has its own propulsion or is mounted on or~~
 787 ~~towed by another motor vehicle.~~

788 (16)~~(18)~~ "Pipeline system operator" means any person who
 789 owns or operates a liquefied petroleum gas pipeline system that
 790 is used to transmit liquefied petroleum gas from a common source
 791 to the ~~ultimate~~ customer and that serves 10 or more customers.

792 ~~(19) "Category V liquefied petroleum gases dealer for~~
 793 ~~industrial uses only" means any person engaged in the business~~
 794 ~~of filling, selling, and transporting liquefied petroleum gas~~
 795 ~~containers for use in welding, forklifts, or other industrial~~
 796 ~~applications.~~

797 (17)~~(20)~~ "License period year" means the period 1 to 3
 798 years from the issuance of the license ~~from September 1 through~~
 799 ~~the following August 31, or April 1 through the following March~~
 800 ~~31, depending upon the type of license.~~

801 Section 19. Section 527.02, Florida Statutes, is amended
 802 to read:

803 527.02 License; penalty; fees.—

804 (1) It is unlawful for any person to engage in this state
 805 in the activities defined in s. 527.01(6) through (11) ~~of a~~
 806 ~~pipeline system operator, category I liquefied petroleum gas~~
 807 ~~dealer, category II liquefied petroleum gas dispenser, category~~
 808 ~~III liquefied petroleum gas cylinder exchange operator, category~~
 809 ~~IV liquefied petroleum gas dispenser and recreational vehicle~~
 810 ~~servicer, category V liquefied petroleum gas dealer for~~
 811 ~~industrial uses only, LP gas installer, specialty installer,~~
 812 ~~dealer in liquefied petroleum gas appliances and equipment,~~
 813 ~~manufacturer of liquefied petroleum gas appliances and~~
 814 ~~equipment, requalifier of cylinders, or fabricator, repairer,~~
 815 ~~and tester of vehicles and cargo tanks~~ without first obtaining
 816 from the department a license to engage in one or more of these
 817 businesses. The sale of liquefied petroleum gas cylinders with a
 818 volume of 10 pounds water capacity or 4.2 pounds liquefied
 819 petroleum gas capacity or less is exempt from the requirements
 820 of this chapter. It is a felony of the third degree, punishable
 821 as provided in s. 775.082, s. 775.083, or s. 775.084, to
 822 intentionally or willfully engage in any of said activities
 823 without first obtaining appropriate licensure from the
 824 department.

825 (2) Each business location of a person having multiple

826 locations must ~~shall~~ be separately licensed and must meet the
 827 requirements of this section. Such license shall be granted to
 828 any applicant determined by the department to be competent,
 829 qualified, and trustworthy who files with the department a
 830 surety bond, insurance affidavit, or other proof of insurance,
 831 as hereinafter specified, and pays for such license the
 832 following annual license ~~original application~~ fee ~~for new~~
 833 ~~licenses and annual renewal fees for existing licenses:~~

License Category	<u>License</u> Original Application Fee <u>Per Year</u>	<u>Renewal</u> Fee
Category I liquefied petroleum gas dealer	<u>\$400</u> \$525	\$425
Category II liquefied petroleum gas dispenser	<u>\$400</u> 525	375
Category III liquefied petroleum gas cylinder exchange unit operator	<u>\$65</u> 100	65

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838	Category IV <u>dealer in appliances and equipment</u> liquefied petroleum gas dispenser and recreational vehicle servicer	<u>\$65</u> 525	400
839	Category V <u>LP gas installer</u> liquefied petroleum gases dealer for industrial uses only	<u>\$200</u> 300	200
840	Category VI <u>miscellaneous operator LP</u> gas installer	<u>\$200</u> 300	200
841	Specialty installer	300	200
842	Dealer in appliances and equipment for use of liquefied petroleum gas	50	45

843 ~~Manufacturer of~~
~~liquefied petroleum~~
~~gas appliances and~~
~~equipment~~ 525 375

844 ~~Requalifier of~~
~~eylinders~~ 525 375

845 ~~Fabricator, repairer,~~
~~and tester of~~
~~vehieles and~~
~~eargo tanks~~ 525 375

846
847 (3) (a) ~~An applicant for an original license who submits an~~
848 ~~application during the last 6 months of the license year may~~
849 ~~have the original license fee reduced by one half for the 6-~~
850 ~~month period. This provision applies only to those companies~~
851 ~~applying for an original license and may not be applied to~~
852 ~~licensees who held a license during the previous license year~~
853 ~~and failed to renew the license.~~ The department may refuse to
854 issue an initial license to an applicant who is under
855 investigation in any jurisdiction for an action that would
856 constitute a violation of this chapter until such time as the
857 investigation is complete.

858 (b) The department shall waive the initial license fee for
859 1 year for an honorably discharged veteran of the United States
860 Armed Forces, the spouse of such a veteran, or a business entity
861 that has a majority ownership held by such a veteran or spouse
862 if the department receives an application, in a format
863 prescribed by the department, within 60 months after the date of
864 the veteran's discharge from any branch of the United States
865 Armed Forces. To qualify for the waiver, a veteran must provide
866 to the department a copy of his or her DD Form 214, as issued by
867 the United States Department of Defense or another acceptable
868 form of identification as specified by the Department of
869 Veterans' Affairs; the spouse of a veteran must provide to the
870 department a copy of the veteran's DD Form 214, as issued by the
871 United States Department of Defense, or another acceptable form
872 of identification as specified by the Department of Veterans'
873 Affairs, and a copy of a valid marriage license or certificate
874 verifying that he or she was lawfully married to the veteran at
875 the time of discharge; or a business entity must provide to the
876 department proof that a veteran or the spouse of a veteran holds
877 a majority ownership in the business, a copy of the veteran's DD
878 Form 214, as issued by the United States Department of Defense,
879 or another acceptable form of identification as specified by the
880 Department of Veterans' Affairs, and, if applicable, a copy of a
881 valid marriage license or certificate verifying that the spouse
882 of the veteran was lawfully married to the veteran at the time

883 of discharge.

884 (4) Any licensee submitting a material change in their
 885 information for licensing, before the date for renewal, must
 886 submit such change to the department in the manner prescribed by
 887 the department, along with a fee in the amount of \$10 Any person
 888 ~~applying for a liquefied petroleum gas license as a specialty~~
 889 ~~installer, as defined by s. 527.01(11), shall upon application~~
 890 ~~to the department identify the specific area of work to be~~
 891 ~~performed. Upon completion of all license requirements set forth~~
 892 ~~in this chapter, the department shall issue the applicant a~~
 893 ~~license specifying the scope of work, as identified by the~~
 894 ~~applicant and defined by rule of the department, for which the~~
 895 ~~person is authorized.~~

896 ~~(5) The license fee for a pipeline system operator shall~~
 897 ~~be \$100 per system owned or operated by the person, not to~~
 898 ~~exceed \$400 per license year. Such license fee applies only to a~~
 899 ~~pipeline system operator who owns or operates a liquefied~~
 900 ~~petroleum gas pipeline system that is used to transmit liquefied~~
 901 ~~petroleum gas from a common source to the ultimate customer and~~
 902 ~~that serves 10 or more customers.~~

903 (5)(6) The department shall adopt promulgate rules
 904 specifying acts deemed by the department to demonstrate a lack
 905 of trustworthiness to engage in activities requiring a license
 906 or qualifier identification card under this section.

907 ~~(7) Any license issued by the department may be~~

908 ~~transferred to any person, firm, or corporation for the~~
 909 ~~remainder of the current license year upon written request to~~
 910 ~~the department by the original licenseholder. Prior to approval~~
 911 ~~of any transfer, all licensing requirements of this chapter must~~
 912 ~~be met by the transferee. A license transfer fee of \$50 shall be~~
 913 ~~charged for each such transfer.~~

914 Section 20. Section 527.0201, Florida Statutes, is amended
 915 to read:

916 527.0201 Qualifiers; master qualifiers; examinations.-

917 (1) In addition to the requirements of s. 527.02, any
 918 person applying for a license to engage in category I, category
 919 II, or category V ~~the activities of a pipeline system operator,~~
 920 ~~category I liquefied petroleum gas dealer, category II liquefied~~
 921 ~~petroleum gas dispenser, category IV liquefied petroleum gas~~
 922 ~~dispenser and recreational vehicle servicer, category V~~
 923 ~~liquefied petroleum gases dealer for industrial uses only, LP~~
 924 ~~gas installer, specialty installer, requalifier of cylinders, or~~
 925 ~~fabricator, repairer, and tester of vehicles and cargo tanks~~
 926 must prove competency by passing a written examination
 927 administered by the department or its agent with a grade of 70
 928 ~~75~~ percent or above in each area tested. Each applicant for
 929 examination shall submit a \$20 nonrefundable fee. The department
 930 shall by rule specify the general areas of competency to be
 931 covered by each examination and the relative weight to be
 932 assigned in grading each area tested.

933 (2) Application for examination for competency may be made
 934 by an individual or by an owner, a partner, or any person
 935 employed by the license applicant. Upon successful completion of
 936 the competency examination, the department shall register ~~issue~~
 937 ~~a qualifier identification card to~~ the examinee.

938 (a) Qualifier registration automatically expires if
 939 ~~identification cards, except those issued to category I~~
 940 ~~liquefied petroleum gas dealers and liquefied petroleum gas~~
 941 ~~installers, shall remain in effect as long as the individual~~
 942 ~~shows to the department proof of active employment in the area~~
 943 ~~of examination and all continuing education requirements are~~
 944 ~~met. Should the individual terminates terminate active~~
 945 employment in the area of examination for a period exceeding 24
 946 months, or fails fail to provide documentation of continuing
 947 education, ~~the individual's qualifier status shall automatically~~
 948 ~~expire.~~ If the qualifier registration ~~status~~ has expired, the
 949 individual must apply for and successfully complete an
 950 examination by the department in order to reestablish qualifier
 951 status.

952 (b) Every business organization in license category I,
 953 category II, or category V shall employ at all times a full-time
 954 qualifier who has successfully completed an examination in the
 955 corresponding category of the license held by the business
 956 organization. A person may not act as a qualifier for more than
 957 one licensed location.

958 (3) Qualifier registration expires ~~cards issued to~~
 959 ~~category I liquefied petroleum gas dealers and liquefied~~
 960 ~~petroleum gas installers shall expire~~ 3 years after the date of
 961 issuance. ~~All category I liquefied petroleum gas dealer~~
 962 ~~qualifiers and liquefied petroleum gas installer qualifiers~~
 963 ~~holding a valid qualifier card upon the effective date of this~~
 964 ~~act shall retain their qualifier status until July 1, 2003, and~~
 965 ~~may sit for the master qualifier examination at any time during~~
 966 ~~that time period. All such category I liquefied petroleum gas~~
 967 ~~dealer qualifiers and liquefied petroleum gas installer~~
 968 ~~qualifiers may renew their qualification on or before July 1,~~
 969 ~~2003,~~ upon application to the department, payment of a \$20
 970 renewal fee, and documentation of the completion of a minimum of
 971 16 hours of approved continuing education courses, as defined by
 972 department rule, during the previous 3-year period. Applications
 973 for renewal must be made 30 calendar days before expiration.
 974 Persons failing to renew before the expiration date must reapply
 975 and take a qualifier competency examination in order to
 976 reestablish ~~category I liquefied petroleum gas dealer qualifier~~
 977 ~~and liquefied petroleum gas installer qualifier~~ status. ~~If a~~
 978 ~~category I liquefied petroleum gas qualifier or liquefied~~
 979 ~~petroleum gas installer qualifier becomes a master qualifier at~~
 980 ~~any time during the effective date of the qualifier card, the~~
 981 ~~card shall remain in effect until expiration of the master~~
 982 ~~qualifier certification.~~

983 (4) A qualifier for a business ~~organization involved in~~
 984 ~~installation, repair, maintenance, or service of liquefied~~
 985 ~~petroleum gas appliances, equipment, or systems~~ must actually
 986 function in a supervisory capacity of other company employees
 987 performing licensed activities ~~installing, repairing,~~
 988 ~~maintaining, or servicing liquefied petroleum gas appliances,~~
 989 ~~equipment, or systems.~~ A separate qualifier shall be required
 990 for every 10 such employees. ~~Additional qualifiers are required~~
 991 ~~for those business organizations employing more than 10~~
 992 ~~employees that install, repair, maintain, or service liquefied~~
 993 ~~petroleum gas equipment and systems.~~

994 (5) In addition to all other licensing requirements, each
 995 category I and category V licensee ~~liquefied petroleum gas~~
 996 ~~dealer and liquefied petroleum gas installer~~ must, at the time
 997 of application for licensure, identify to the department one
 998 master qualifier who is a full-time employee at the licensed
 999 location. This person shall be a manager, owner, or otherwise
 1000 primarily responsible for overseeing the operations of the
 1001 licensed location and must provide documentation to the
 1002 department as provided by rule. The master qualifier requirement
 1003 shall be in addition to the requirements of subsection (1).

1004 (a) In order to apply for certification as a master
 1005 qualifier, each applicant must have been a registered ~~be a~~
 1006 ~~category I liquefied petroleum gas dealer qualifier or liquefied~~
 1007 ~~petroleum gas installer~~ qualifier for a minimum of 3 years

1008 immediately preceding submission of the application, must be
 1009 employed by a licensed category I or category V licensee
 1010 ~~liquefied petroleum gas dealer, liquefied petroleum gas~~
 1011 ~~installer~~, or applicant for such license, ~~must provide~~
 1012 ~~documentation of a minimum of 1 year's work experience in the~~
 1013 ~~gas industry~~, and must pass a master qualifier competency
 1014 examination. Master qualifier examinations shall be based on
 1015 Florida's laws, rules, and adopted codes governing liquefied
 1016 petroleum gas safety, general industry safety standards, and
 1017 administrative procedures. The applicant must successfully pass
 1018 the examination with a grade of 70 ~~75~~ percent or above. Each
 1019 applicant for master qualifier registration ~~status~~ must submit
 1020 to the department a nonrefundable \$30 examination fee before the
 1021 examination.

1022 (b) Upon successful completion of the master qualifier
 1023 examination, the department shall issue the examinee a
 1024 ~~certificate of~~ master qualifier registration ~~status which shall~~
 1025 ~~include the name of the licensed company for which the master~~
 1026 ~~qualifier is employed~~. A master qualifier may transfer from one
 1027 licenseholder to another upon becoming employed by the company
 1028 and providing a written request to the department.

1029 (c) A master qualifier registration expires ~~status shall~~
 1030 ~~expire~~ 3 years after the date of issuance ~~of the certificate~~ and
 1031 may be renewed by submission to the department of documentation
 1032 of completion of at least 16 hours of approved continuing

1033 education courses during the 3-year period; proof of employment
 1034 ~~with a licensed category I liquefied petroleum gas dealer,~~
 1035 ~~liquefied petroleum gas installer, or applicant;~~ and a \$30
 1036 certificate renewal fee. The department shall define, by rule,
 1037 approved courses of continuing education.

1038 ~~(d) Each category I liquefied petroleum gas dealer or~~
 1039 ~~liquefied petroleum gas installer licensed as of August 31,~~
 1040 ~~2000, shall identify to the department one current category I~~
 1041 ~~liquefied petroleum gas dealer qualifier or liquefied petroleum~~
 1042 ~~gas installer qualifier who will be the designated master~~
 1043 ~~qualifier for the licenseholder. Such individual must provide~~
 1044 ~~proof of employment for 3 years or more within the liquefied~~
 1045 ~~petroleum gas industry, and shall, upon approval of the~~
 1046 ~~department, be granted a master qualifier certificate. All other~~
 1047 ~~requirements with regard to master qualifier certificate~~
 1048 ~~expiration, renewal, and continuing education shall apply.~~

1049 (6) A vacancy in a qualifier or master qualifier position
 1050 in a business organization which results from the departure of
 1051 the qualifier or master qualifier shall be immediately reported
 1052 to the department by the departing qualifier or master qualifier
 1053 and the licensed company.

1054 (a) If a business organization no longer possesses a duly
 1055 designated qualifier, as required by this section, its liquefied
 1056 petroleum gas licenses shall be suspended by order of the
 1057 department after 20 working days. The license shall remain

1058 | suspended until a competent qualifier has been employed, the
 1059 | order of suspension terminated by the department, and the
 1060 | license reinstated. A vacancy in the qualifier position for a
 1061 | period of more than 20 working days shall be deemed to
 1062 | constitute an immediate threat to the public health, safety, and
 1063 | welfare. ~~Failure to obtain a replacement qualifier within 60~~
 1064 | ~~days after the vacancy occurs shall be grounds for revocation of~~
 1065 | ~~licensure or eligibility for licensure.~~

1066 | (b) Any category I or category V licensee liquefied
 1067 | ~~petroleum gas dealer or LP gas installer~~ who no longer possesses
 1068 | a master qualifier but currently employs a ~~category I liquefied~~
 1069 | ~~petroleum gas dealer or LP gas installer~~ qualifier as required
 1070 | by this section, has ~~shall have~~ 60 days within which to replace
 1071 | the master qualifier. If the company fails to replace the master
 1072 | qualifier within the 60-day ~~time~~ period, the license of the
 1073 | company shall be suspended by order of the department. The
 1074 | license shall remain suspended until a competent master
 1075 | qualifier has been employed, the order of suspension has been
 1076 | terminated by the department, and the license reinstated.
 1077 | ~~Failure to obtain a replacement master qualifier within 90 days~~
 1078 | ~~after the vacancy occurs shall be grounds for revocation of~~
 1079 | ~~licensure or eligibility for licensure.~~

1080 | (7) The department may deny, refuse to renew, suspend, or
 1081 | revoke any qualifier ~~card~~ or master qualifier registration
 1082 | ~~certificate~~ for any of the following causes:

1083 (a) Violation of any provision of this chapter or any rule
 1084 or order of the department;

1085 (b) Falsification of records relating to the qualifier
 1086 ~~card~~ or master qualifier registration certificate; or

1087 (c) Failure to meet any of the renewal requirements.

1088 (8) Any individual having competency qualifications on
 1089 file with the department may request the transfer of such
 1090 qualifications to any existing licenseholder by making a written
 1091 request to the department for such transfer. Any individual
 1092 having a competency examination on file with the department may
 1093 use such examination for a new license application after making
 1094 application in writing to the department. All examinations are
 1095 confidential and exempt from the provisions of s. 119.07(1).

1096 (9) If a duplicate license, qualifier ~~card~~, or master
 1097 qualifier registration certificate is requested by the licensee,
 1098 a fee of \$10 must be received before issuance of the duplicate
 1099 license or certificate card. ~~If a facsimile transmission of an~~
 1100 ~~original license is requested, upon completion of the~~
 1101 ~~transmission a fee of \$10 must be received by the department~~
 1102 ~~before the original license may be mailed to the requester.~~

1103 (10) All revenues collected herein shall be deposited in
 1104 the General Inspection Trust Fund for the purpose of
 1105 administering the provisions of this chapter.

1106 Section 21. Section 527.021, Florida Statutes, is amended
 1107 to read:

1108 527.021 Registration of transport vehicles.-
 1109 (1) Each liquefied petroleum gas bulk delivery vehicle
 1110 owned or leased by a liquefied petroleum gas licensee must be
 1111 registered with the department as part of the licensing
 1112 application or when placed into service annually.
 1113 (2) For the purposes of this section, a "liquefied
 1114 petroleum gas bulk delivery vehicle" means any vehicle that is
 1115 used to transport liquefied petroleum gas on any public street
 1116 or highway as liquid cargo in a cargo tank, which tank is
 1117 mounted on a conventional truck chassis or is an integral part
 1118 of a transporting vehicle in which the tank constitutes, in
 1119 whole or in part, the stress member used as a frame and is a
 1120 permanent part of the transporting vehicle.
 1121 (3) ~~Vehicle registrations shall be submitted by the~~
 1122 ~~vehicle owner or lessee in conjunction with the annual renewal~~
 1123 ~~of his or her liquefied petroleum gas license, but no later than~~
 1124 ~~August 31 of each year.~~ A dealer who fails to register a vehicle
 1125 with the department does not submit the required vehicle
 1126 registration by August 31 of each year is subject to the
 1127 penalties in s. 527.13.
 1128 (4) The department shall issue a decal to be placed on
 1129 each vehicle that is inspected by the department and found to be
 1130 in compliance with applicable codes.
 1131 Section 22. Section 527.03, Florida Statutes, is amended
 1132 to read:

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1133 527.03 ~~Annual~~ Renewal of license.—All licenses required
 1134 under this chapter shall be renewed annually, biennially, or
 1135 triennially, as elected by the licensee, subject to the license
 1136 fees prescribed in s. 527.02. All renewals must meet the same
 1137 requirements and conditions as an annual license for each
 1138 licensed year ~~All licenses, except Category III Liquefied~~
 1139 ~~Petroleum Gas Cylinder Exchange Unit Operator licenses and~~
 1140 ~~Dealer in Appliances and Equipment for Use of Liquefied~~
 1141 ~~Petroleum Gas licenses, shall be renewed for the period~~
 1142 ~~beginning September 1 and shall expire on the following August~~
 1143 ~~31 unless sooner suspended, revoked, or otherwise terminated.~~
 1144 ~~Category III Liquefied Petroleum Gas Cylinder Exchange Unit~~
 1145 ~~Operator licenses and Dealer in Appliances and Equipment for Use~~
 1146 ~~of Liquefied Petroleum Gas licenses shall be renewed for the~~
 1147 ~~period beginning April 1 and shall expire on the following March~~
 1148 ~~31 unless sooner suspended, revoked, or otherwise terminated.~~
 1149 Any license allowed to expire will ~~shall~~ become inoperative
 1150 because of failure to renew. The fee for restoration of a
 1151 license is equal to the original license fee and must be paid
 1152 before the licensee may resume operations.

1153 Section 23. Section 527.04, Florida Statutes, is amended
 1154 to read:

1155 527.04 Proof of insurance required.—

1156 (1) Before any license is issued, except to a category IV
 1157 ~~dealer in appliances and equipment for use of liquefied~~

1158 | ~~petroleum gas~~ or a category III liquefied petroleum gas cylinder
 1159 | exchange operator, the applicant must deliver to the department
 1160 | satisfactory evidence that the applicant is covered by a primary
 1161 | policy of bodily injury liability and property damage liability
 1162 | insurance that covers the products and operations with respect
 1163 | to such business and is issued by an insurer authorized to do
 1164 | business in this state for an amount not less than \$1 million
 1165 | and that the premium on such insurance is paid. An insurance
 1166 | certificate, affidavit, or other satisfactory evidence of
 1167 | acceptable insurance coverage shall be accepted as proof of
 1168 | insurance. In lieu of an insurance policy, the applicant may
 1169 | deliver a good and sufficient bond in the amount of \$1 million,
 1170 | payable to the Commissioner of Agriculture ~~Governor of Florida~~,
 1171 | with the applicant as principal and a surety company authorized
 1172 | to do business in this state as surety. The bond must be
 1173 | conditioned upon the applicant's compliance with this chapter
 1174 | and the rules of the department with respect to the conduct of
 1175 | such business and shall indemnify and hold harmless all persons
 1176 | from loss or damage by reason of the applicant's failure to
 1177 | comply. However, the aggregated liability of the surety may not
 1178 | exceed \$1 million. If the insurance policy is canceled or
 1179 | otherwise terminated or the bond becomes insufficient, the
 1180 | department may require new proof of insurance or a new bond to
 1181 | be filed, and if the licenseholder fails to comply, the
 1182 | department shall cancel the license issued and give the

1183 licenseholder written notice that it is unlawful to engage in
 1184 business without a license. A new bond is not required as long
 1185 as the original bond remains sufficient and in force. If the
 1186 licenseholder's insurance coverage as required by this
 1187 subsection is canceled or otherwise terminated, the insurer must
 1188 notify the department within 30 days after the cancellation or
 1189 termination.

1190 (2) Before any license is issued to a category ~~class~~ III
 1191 liquefied petroleum gas cylinder exchange operator, the
 1192 applicant must deliver to the department satisfactory evidence
 1193 that the applicant is covered by a primary policy of bodily
 1194 injury liability and property damage liability insurance that
 1195 covers the products and operations with respect to the business
 1196 and is issued by an insurer authorized to do business in this
 1197 state for an amount not less than \$300,000 and that the premium
 1198 on the insurance is paid. An insurance certificate, affidavit,
 1199 or other satisfactory evidence of acceptable insurance coverage
 1200 shall be accepted as proof of insurance. In lieu of an insurance
 1201 policy, the applicant may deliver a good and sufficient bond in
 1202 the amount of \$300,000, payable to the Commissioner of
 1203 Agriculture ~~Governor~~, with the applicant as principal and a
 1204 surety company authorized to do business in this state as
 1205 surety. The bond must be conditioned upon the applicant's
 1206 compliance with this chapter and the rules of the department
 1207 with respect to the conduct of such business and must indemnify

1208 and hold harmless all persons from loss or damage by reason of
 1209 the applicant's failure to comply. However, the aggregated
 1210 liability of the surety may not exceed \$300,000. If the
 1211 insurance policy is canceled or otherwise terminated or the bond
 1212 becomes insufficient, the department may require new proof of
 1213 insurance or a new bond to be filed, and if the licenseholder
 1214 fails to comply, the department shall cancel the license issued
 1215 and give the licenseholder written notice that it is unlawful to
 1216 engage in business without a license. A new bond is not required
 1217 as long as the original bond remains sufficient and in force. If
 1218 the licenseholder's insurance coverage required by this
 1219 subsection is canceled or otherwise terminated, the insurer must
 1220 notify the department within 30 days after the cancellation or
 1221 termination.

1222 (3) Any person having a cause of action on the bond may
 1223 bring suit against the principal and surety, and a copy of such
 1224 bond duly certified by the department shall be received in
 1225 evidence in the courts of this state without further proof. The
 1226 department shall furnish a certified copy of the ~~such~~ bond upon
 1227 payment to it of its lawful fee for making and certifying such
 1228 copy.

1229 Section 24. Section 527.0605, Florida Statutes, is amended
 1230 to read:

1231 527.0605 Liquefied petroleum gas bulk storage locations;
 1232 jurisdiction.-

1233 (1) The provisions of this chapter ~~shall~~ apply to
 1234 liquefied petroleum gas bulk storage locations when:
 1235 (a) A single container in the bulk storage location has a
 1236 capacity of 2,000 gallons or more;
 1237 (b) The aggregate container capacity of the bulk storage
 1238 location is 4,000 gallons or more; or
 1239 (c) A container or containers are installed for the
 1240 purpose of serving the public the liquid product.

1241 ~~(2) Prior to the installation of any bulk storage~~
 1242 ~~container, the licensee must submit to the department a site~~
 1243 ~~plan of the facility which shows the proposed location of the~~
 1244 ~~container and must obtain written approval of such location from~~
 1245 ~~the department.~~

1246 ~~(3) A fee of \$200 shall be assessed for each site plan~~
 1247 ~~reviewed by the division. The review shall include~~
 1248 ~~preconstruction inspection of the proposed site, plan review,~~
 1249 ~~and final inspection of the completed facility.~~

1250 (2)~~(4)~~ No newly installed container may be placed in
 1251 operation until it has been inspected and approved by the
 1252 department.

1253 Section 25. Subsection (1) of section 527.065, Florida
 1254 Statutes, is amended to read:

1255 527.065 Notification of accidents; leak calls.-

1256 (1) Immediately upon discovery, all liquefied petroleum
 1257 gas licensees shall notify the department of any liquefied

1258 petroleum gas-related accident involving a liquefied petroleum
 1259 gas licensee or customer account:

1260 (a) Which caused a death or personal injury requiring
 1261 professional medical treatment;

1262 (b) Where uncontrolled ignition of liquefied petroleum gas
 1263 resulted in death, personal injury, or property damage exceeding
 1264 \$3,000 ~~\$1,000~~; or

1265 (c) Which caused estimated damage to property exceeding
 1266 \$3,000 ~~\$1,000~~.

1267 Section 26. Section 527.10, Florida Statutes, is amended
 1268 to read:

1269 527.10 Restriction on use of unsafe container or system.—
 1270 No liquefied petroleum gas shall be introduced into or removed
 1271 from any container or system in this state that has been
 1272 identified by the department or its duly authorized inspectors
 1273 as not complying with the rules pertaining to such container or
 1274 system, until such violations as specified have been
 1275 satisfactorily corrected and authorization for continued service
 1276 or removal granted by the department. A statement of violations
 1277 of the rules that render such a system unsafe for use shall be
 1278 furnished in writing by the department to the ~~ultimate~~ consumer
 1279 or dealer in liquefied petroleum gas.

1280 Section 27. Subsections (3) and (17) of section 527.21,
 1281 Florida Statutes, are amended to read:

1282 527.21 Definitions relating to Florida Propane Gas

1283 Education, Safety, and Research Act.—As used in ss. 527.20-
 1284 527.23, the term:

1285 (3) "Dealer" means a business engaged primarily in selling
 1286 propane gas and its appliances and equipment to the ~~ultimate~~
 1287 consumer or to retail propane gas dispensers.

1288 (17) "Wholesaler" or "reseller" means a seller of propane
 1289 gas who is not a producer and who does not sell propane gas to
 1290 the ~~ultimate~~ consumer.

1291 Section 28. Paragraph (a) of subsection (2) of section
 1292 527.22, Florida Statutes, is amended to read:

1293 527.22 Florida Propane Gas Education, Safety, and Research
 1294 Council established; membership; duties and responsibilities.—

1295 (2) (a) ~~Within 90 days after the effective date of this~~
 1296 ~~act, the commissioner shall make a call to qualified industry~~
 1297 ~~organizations for nominees to the council.~~ The commissioner
 1298 shall appoint members of the council from a list of nominees
 1299 submitted by qualified industry organizations. The commissioner
 1300 may require such reports or documentation as is necessary to
 1301 document the nomination process for members of the council.
 1302 Qualified industry organizations, in making nominations, and the
 1303 commissioner, in making appointments, shall give due regard to
 1304 selecting a council that is representative of the industry and
 1305 the geographic regions of the state. Other than the public
 1306 member, council members must be full-time employees or owners of
 1307 propane gas producers or dealers doing business in this state.

1308 Section 29. Section 531.67, Florida Statutes, is amended
 1309 to read:

1310 531.67 Expiration of sections.—Sections 531.60, 531.61,
 1311 531.62, 531.63, 531.64, 531.65, and 531.66 shall expire July 1,
 1312 2025 ~~2020~~.

1313 Section 30. Subsection (46) is added to section 570.07,
 1314 Florida Statutes, to read:

1315 570.07 Department of Agriculture and Consumer Services;
 1316 functions, powers, and duties.—The department shall have and
 1317 exercise the following functions, powers, and duties:

1318 (46) During a state of emergency declared pursuant to s.
 1319 252.36, to waive fees by emergency order for duplicate copies or
 1320 renewal of permits, licenses, certifications, or other similar
 1321 types of authorizations during a period specified by the
 1322 commissioner.

1323 Section 31. Section 573.111, Florida Statutes, is amended
 1324 to read:

1325 573.111 Notice of effective date of marketing order.—
 1326 Before the issuance of any marketing order, or any suspension,
 1327 amendment, or termination thereof, a notice must ~~shall~~ be posted
 1328 ~~on a public bulletin board to be maintained by the department in~~
 1329 ~~the Division of Marketing and Development of the department in~~
 1330 ~~the Nathan Mayo Building, Tallahassee, Leon County, and a copy~~
 1331 ~~of the notice shall be posted on the department website the same~~
 1332 ~~date that the notice is posted on the bulletin board. A No~~

1333 marketing order, or any suspension, amendment, or termination
 1334 thereof, may not ~~shall~~ become effective until ~~the termination of~~
 1335 ~~a period of~~ 5 days after ~~from~~ the date of posting and
 1336 publication.

1337 Section 32. Section 578.011, Florida Statutes, is amended
 1338 to read:

1339 578.011 Definitions; Florida Seed Law.—When used in this
 1340 chapter, the term:

1341 (1) "Advertisement" means all representations, other than
 1342 those on the label, disseminated in any manner or by any means,
 1343 relating to seed within the scope of this law.

1344 (2) "Agricultural seed" includes the seed of grass,
 1345 forage, cereal and fiber crops, and chufas and any other seed
 1346 commonly recognized within the state as agricultural seed, lawn
 1347 seed, and combinations of such seed, and may include identified
 1348 noxious weed seed when the department determines that such seed
 1349 is being used as agricultural seed ~~or field seed and mixtures of~~
 1350 ~~such seed.~~

1351 (3) "Blend" means seed consisting of more than one variety
 1352 of one kind, each present in excess of 5 percent by weight of
 1353 the whole.

1354 (4) "Buyer" means a person who purchases agricultural,
 1355 vegetable, flower, tree, or shrub seed in packaging of 1,000
 1356 seeds or more by count.

1357 (5) "Brand" means a distinguishing word, name, symbol,

1358 number, or design used to identify seed produced, packaged,
 1359 advertised, or offered for sale by a particular person.

1360 (6)(3) "Breeder seed" means a class of certified seed
 1361 directly controlled by the originating or sponsoring plant
 1362 breeding institution or person, or designee thereof, and is the
 1363 source for the production of seed of the other classes of
 1364 certified seed that are released directly from the breeder or
 1365 experiment station that develops the seed. These seed are one
 1366 class above foundation seed.

1367 (7)(4) "Certified seed," means a class of seed which is
 1368 the progeny of breeder, foundation, or registered seed
 1369 "registered seed," and "foundation seed" mean seed that have
 1370 been produced and labeled in accordance with the procedures and
 1371 in compliance with the rules and regulations of any agency
 1372 authorized by the laws of this state or the laws of another
 1373 state.

1374 (8) "Certifying agency" means:

1375 (a) An agency authorized under the laws of a state,
 1376 territory, or possession of the United States to officially
 1377 certify seed and which has standards and procedures approved by
 1378 the United States Secretary of Agriculture to assure the genetic
 1379 purity and identity of the seed certified; or

1380 (b) An agency of a foreign country that the United States
 1381 Secretary of Agriculture has determined as adhering to
 1382 procedures and standards for seed certification comparable to

1383 those adhered to generally by seed certifying agencies under
 1384 paragraph (a).

1385 (9) "Coated seed" means seed that has been covered by a
 1386 layer of materials that obscures the original shape and size of
 1387 the seed and substantially increases the weight of the product.
 1388 The addition of biologicals, pesticides, identifying colorants
 1389 or dyes, or other active ingredients including polymers may be
 1390 included in this process.

1391 (10)(5) "Date of test" means the month and year the
 1392 percentage of germination appearing on the label was obtained by
 1393 laboratory test.

1394 (11)(6) "Dealer" means any person who sells or offers for
 1395 sale any agricultural, vegetable, flower, ~~or forest tree,~~ or
 1396 shrub seed for seeding purposes, and includes farmers who sell
 1397 cleaned, processed, packaged, and labeled seed.

1398 (12)(7) "Department" means the Department of Agriculture
 1399 and Consumer Services or its authorized representative.

1400 (13)(8) "Dormant seed" refers to viable seed, other than
 1401 hard seed, which neither germinate nor decay during the
 1402 prescribed test period and under the prescribed test conditions.

1403 (14)(9) "Flower seed" includes seed of herbaceous plants
 1404 grown for blooms, ornamental foliage, or other ornamental parts,
 1405 and commonly known and sold under the name of flower or
 1406 wildflower seed in this state.

1407 ~~(10) "Forest tree seed" includes seed of woody plants~~

1408 ~~commonly known and sold as forest tree seed.~~

1409 (15) "Foundation seed" means a class of certified seed
 1410 which is the progeny of breeder or other foundation seed and is
 1411 produced and handled under procedures established by the
 1412 certifying agency, in accordance with this part, for producing
 1413 foundation seed, for the purpose of maintaining genetic purity
 1414 and identity.

1415 (16)~~(11)~~ "Germination" means the emergence and development
 1416 from the seed embryo of those essential structures which, for
 1417 the kind of seed in question, are indicative of the ability to
 1418 produce a normal plant under favorable conditions ~~percentage of~~
 1419 ~~seed capable of producing normal seedlings under ordinarily~~
 1420 ~~favorable conditions. Broken seedlings and weak, malformed and~~
 1421 ~~obviously abnormal seedlings shall not be considered to have~~
 1422 ~~germinated.~~

1423 (17)~~(12)~~ "Hard seed" means seeds that remain hard at the
 1424 end of a prescribed test period because they have not absorbed
 1425 water due to an impermeable seed coat ~~the percentage of seed~~
 1426 ~~which because of hardness or impermeability did not absorb~~
 1427 ~~moisture or germinate under prescribed tests but remain hard~~
 1428 ~~during the period prescribed for germination of the kind of seed~~
 1429 ~~concerned.~~

1430 (18)~~(13)~~ "Hybrid" means the first generation seed of a
 1431 cross produced by controlling the pollination and by combining:

1432 (a) Two or more inbred lines;

1433 (b) One inbred or a single cross with an open-pollinated
 1434 variety; or

1435 (c) Two varieties or species, except open-pollinated
 1436 varieties of corn (*Zea mays*).

1437

1438 The second generation or subsequent generations from such
 1439 crosses may ~~shall~~ not be regarded as hybrids. Hybrid
 1440 designations shall be treated as variety names.

1441 (19) ~~(14)~~ "Inert matter" means all matter that is not a
 1442 full seed ~~includes broken seed when one half in size or less,~~
 1443 ~~seed of legumes or crucifers with the seed coats removed,~~
 1444 ~~undeveloped and badly injured weed seed such as sterile dodder~~
 1445 ~~which, upon visual examination, are clearly incapable of growth,~~
 1446 ~~empty glumes of grasses, attached sterile glumes of grasses~~
 1447 ~~(which must be removed from the fertile glumes except in Rhodes~~
 1448 ~~grass); dirt, stone, chaff, nematode, fungus bodies, and any~~
 1449 ~~matter other than seed.~~

1450 (20) ~~(15)~~ "Kind" means one or more related species or
 1451 subspecies which singly or collectively is known by one common
 1452 name; e.g., corn, beans, lespedeza.

1453 (21) "Label" means the display or displays of written or
 1454 printed material upon or attached to a container of seed.

1455 (22) ~~(16)~~ "Labeling" includes all labels and other written,
 1456 printed, or graphic representations, in any form, accompanying
 1457 and pertaining to any seed, whether in bulk or in containers,

1458 and includes invoices and other bills of shipment when sold in
 1459 bulk.

1460 (23)~~(17)~~ "Lot ~~of seed~~" means a definite quantity of seed
 1461 identified by a lot number or other mark identification, every
 1462 portion or bag of which is uniform within recognized tolerances
 1463 for the factors that appear in the labeling, ~~for the factors~~
 1464 ~~which appear in the labeling, within permitted tolerances.~~

1465 (24)~~(18)~~ "Mix," "mixed," or "mixture" means seed
 1466 consisting of more than one kind ~~or variety~~, each present in
 1467 excess of 5 percent by weight of the whole.

1468 (25) "Mulch" means a protective covering of any suitable
 1469 substance placed with seed which acts to retain sufficient
 1470 moisture to support seed germination and sustain early seedling
 1471 growth and aid in the prevention of the evaporation of soil
 1472 moisture, the control of weeds, and the prevention of erosion.

1473 (26) "Noxious weed seed" means seed in one of two classes
 1474 of seed:

1475 (a) "Prohibited noxious weed seed" means the seed of weeds
 1476 that are highly destructive and difficult to control by good
 1477 cultural practices and the use of herbicides.

1478 (b) "Restricted noxious weed seed" means weed seeds that
 1479 are objectionable in agricultural crops, lawns, and gardens of
 1480 this state and which can be controlled by good agricultural
 1481 practices or the use of herbicides.

1482 (27)~~(19)~~ "Origin" means the state, District of Columbia,

1483 Puerto Rico, or possession of the United States, or the foreign
 1484 country where the seed were grown, except for native species,
 1485 where the term means the county or collection zone and the state
 1486 where the seed were grown ~~for forest tree seed, with respect to~~
 1487 ~~which the term "origin" means the county or state forest service~~
 1488 ~~seed collection zone and the state where the seed were grown.~~

1489 (28) ~~(20)~~ "Other crop seed" includes all seed of plants
 1490 grown in this state as crops, other than the kind or kind and
 1491 variety included in the pure seed, when not more than 5 percent
 1492 of the whole of a single kind or variety is present, unless
 1493 designated as weed seed.

1494 (29) "Packet seed" means seed prepared for use in home
 1495 gardens and household plantings packaged in labeled, sealed
 1496 containers of less than 8 ounces and typically sold from seed
 1497 racks or displays in retail establishments, via the Internet, or
 1498 through mail order.

1499 (30) ~~(21)~~ "Processing" means conditioning, cleaning,
 1500 scarifying, or blending to obtain uniform quality and other
 1501 operations which would change the purity or germination of the
 1502 seed and, therefore, require retesting to determine the quality
 1503 of the seed.

1504 ~~(22)~~ ~~"Prohibited noxious weed seed" means the seed and~~
 1505 ~~bulblets of perennial weeds such as not only reproduce by seed~~
 1506 ~~or bulblets, but also spread by underground roots or stems and~~
 1507 ~~which, when established, are highly destructive and difficult to~~

1508 ~~control in this state by ordinary good cultural practice.~~

1509 (31)~~(23)~~ "Pure seed" means the seed, exclusive of inert
 1510 matter, of the kind or kind and variety of seed declared on the
 1511 label or tag ~~includes all seed of the kind or kind and variety~~
 1512 ~~or strain under consideration, whether shriveled, cracked, or~~
 1513 ~~otherwise injured, and pieces of broken seed larger than one-~~
 1514 ~~half the original size.~~

1515 (32)~~(24)~~ "Record" includes the symbol identifying the seed
 1516 as to origin, amount, processing, testing, labeling, and
 1517 distribution, ~~file sample of the seed,~~ and any other document or
 1518 instrument pertaining to the purchase, sale, or handling of
 1519 agricultural, vegetable, flower, ~~or forest tree,~~ or shrub seed.
 1520 Such information includes seed samples and records of
 1521 declarations, labels, purchases, sales, conditioning, bulking,
 1522 treatment, handling, storage, analyses, tests, and examinations.

1523 (33) "Registered seed" means a class of certified seed
 1524 which is the progeny of breeder or foundation seed and is
 1525 produced and handled under procedures established by the
 1526 certifying agency, in accordance with this part, for the purpose
 1527 of maintaining genetic purity and identity.

1528 ~~(25)~~ "Restricted noxious weed seed" means the seed of such
 1529 weeds as are very objectionable in fields, lawns, or gardens of
 1530 this state, but can be controlled by good cultural practice.
 1531 ~~Seed of poisonous plants may be included.~~

1532 (34) "Shrub seed" means seed of a woody plant that is

1533 smaller than a tree and has several main stems arising at or
 1534 near the ground.

1535 (35)~~(26)~~ "Stop-sale" means any written or printed notice
 1536 or order issued by the department to the owner or custodian of
 1537 any lot of agricultural, vegetable, flower, ~~or forest~~ tree, or
 1538 shrub seed in the state, directing the owner or custodian not to
 1539 sell or offer for sale seed designated by the order within the
 1540 state until the requirements of this law are complied with and a
 1541 written release has been issued; except that the seed may be
 1542 released to be sold for feed.

1543 (36)~~(27)~~ "Treated" means that the seed has been given an
 1544 application of a material or subjected to a process designed to
 1545 control or repel disease organisms, insects, or other pests
 1546 attacking seed or seedlings grown therefrom to improve its
 1547 planting value or to serve any other purpose.

1548 (37) "Tree seed" means seed of a woody perennial plant
 1549 typically having a single stem or trunk growing to a
 1550 considerable height and bearing lateral branches at some
 1551 distance from the ground.

1552 (38)~~(28)~~ "Type" means a group of varieties so nearly
 1553 similar that the individual varieties cannot be clearly
 1554 differentiated except under special conditions.

1555 (39)~~(29)~~ "Variety" means a subdivision of a kind which is
 1556 distinct in the sense that the variety can be differentiated by
 1557 one or more identifiable morphological, physiological, or other

1558 characteristics from all other varieties of public knowledge;
 1559 uniform in the sense that the variations in essential and
 1560 distinctive characteristics are describable; and stable in the
 1561 sense that the variety will remain unchanged in its essential
 1562 and distinctive characteristics and its uniformity when
 1563 reproduced or reconstituted ~~characterized by growth, plant~~
 1564 ~~fruit, seed, or other characteristics by which it can be~~
 1565 ~~differentiated from other sorts of the same kind, e.g.,~~
 1566 ~~Whatley's Prolific corn, Bountiful beans, Kobe lespedeza.~~

1567 (40) ~~(30)~~ "Vegetable seed" means the seed of those crops
 1568 that ~~which~~ are grown in gardens or on truck farms, and are
 1569 generally known and sold under the name of vegetable seed or
 1570 herb seed in this state.

1571 (41) ~~(31)~~ "Weed seed" includes the seed of all plants
 1572 generally recognized as weeds within this state, and includes
 1573 prohibited and restricted noxious weed seed, bulblets, ~~and~~
 1574 tubers, and any other vegetative propagules.

1575 Section 33. Section 578.012, Florida Statutes, is created
 1576 to read:

1577 578.012 Preemption.-

1578 (1) It is the intent of the Legislature to eliminate
 1579 duplication of regulation of seed. As such, this chapter is
 1580 intended as comprehensive and exclusive and occupies the whole
 1581 field of regulation of seed.

1582 (2) The authority to regulate seed or matters relating to

1583 seed in this state is preempted to the state. A local government
 1584 or political subdivision of the state may not enact or enforce
 1585 an ordinance that regulates seed, including the power to assess
 1586 any penalties provided for violation of this chapter.

1587 Section 34. Section 578.08, Florida Statutes, is amended
 1588 to read:

1589 578.08 Registrations.-

1590 (1) Every person, except as provided in subsection (4) ~~and~~
 1591 ~~s. 578.14~~, before selling, distributing for sale, offering for
 1592 sale, exposing for sale, handling for sale, or soliciting orders
 1593 for the purchase of any agricultural, vegetable, flower, ~~or~~
 1594 ~~forest~~ tree, or shrub seed or mixture thereof, shall first
 1595 register with the department as a seed dealer. The application
 1596 for registration must include the name and location of each
 1597 place of business at which the seed is sold, distributed for
 1598 sale, offered for sale, exposed for sale, or handled for sale.

1599 The application must ~~for registration shall~~ be filed with the
 1600 department by using a form prescribed by the department or by
 1601 using the department's website and shall be accompanied by an
 1602 annual registration fee for each such place of business based on
 1603 the gross receipts from the sale of such seed for the last
 1604 preceding license year as follows:

- 1605 (a)1. Receipts of less than \$500, a fee of \$10.
- 1606 2. Receipts of \$500 or more but less than \$1,000, a fee of
- 1607 \$25.

1608 3. Receipts of \$1,000 or more but less than \$2,500, a fee
 1609 of \$100.

1610 4. Receipts of \$2,500 or more but less than \$5,000, a fee
 1611 of \$200.

1612 5. Receipts of \$5,000 or more but less than \$10,000, a fee
 1613 of \$350.

1614 6. Receipts of \$10,000 or more but less than \$20,000, a
 1615 fee of \$800.

1616 7. Receipts of \$20,000 or more but less than \$40,000, a
 1617 fee of \$1,000.

1618 8. Receipts of \$40,000 or more but less than \$70,000, a
 1619 fee of \$1,200.

1620 9. Receipts of \$70,000 or more but less than \$150,000, a
 1621 fee of \$1,600.

1622 10. Receipts of \$150,000 or more but less than \$400,000, a
 1623 fee of \$2,400.

1624 11. Receipts of \$400,000 or more, a fee of \$4,600.

1625 (b) For places of business not previously in operation,
 1626 the fee shall be based on anticipated receipts for the first
 1627 license year.

1628 (2) A ~~written~~ receipt from the department of the
 1629 registration and payment of the fee shall constitute a
 1630 sufficient permit for the dealer to engage in or continue in the
 1631 business of selling, distributing for sale, offering or exposing
 1632 for sale, handling for sale, or soliciting orders for the

1633 purchase of any agricultural, vegetable, flower, ~~or forest tree,~~
 1634 or shrub seed within the state. However, the department has
 1635 ~~shall have~~ authority to suspend or revoke any permit for the
 1636 violation of any provision of this law or of any rule adopted
 1637 under authority hereof. The registration shall expire on June 30
 1638 of the next calendar year and shall be renewed on July 1 of each
 1639 year. If any person subject to the requirements of this section
 1640 fails to comply, the department may issue a stop-sale notice or
 1641 order which shall prohibit the person from selling or causing to
 1642 be sold any agricultural, vegetable, flower, ~~or forest tree,~~ or
 1643 shrubs seed until the requirements of this section are met.

1644 (3) Every person selling, distributing for sale, offering
 1645 for sale, exposing for sale, handling for sale, or soliciting
 1646 orders for the purchase of any agricultural, vegetable, flower,
 1647 ~~or forest tree,~~ or shrub seed in the state other than as
 1648 provided in subsection (4) ~~s. 578.14~~, shall be subject to the
 1649 requirements of this section; ~~except that agricultural~~
 1650 ~~experiment stations of the State University System shall not be~~
 1651 ~~subject to the requirements of this section.~~

1652 (4) ~~The provisions of~~ This chapter does ~~shall~~ not apply to
 1653 farmers who sell only uncleaned, unprocessed, unpackaged, and
 1654 unlabeled seed, but shall apply to farmers who sell cleaned,
 1655 processed, packaged, and labeled seed in amounts in excess of
 1656 \$10,000 in any one year.

1657 (5) When packet seed is sold, offered for sale, or exposed

1658 for sale, the company who packs seed for retail sale must
 1659 register and pay fees as provided under subsection (1).

1660 Section 35. Section 578.09, Florida Statutes, is amended
 1661 to read:

1662 578.09 Label requirements for agricultural, vegetable,
 1663 flower, tree, or shrub seeds.—Each container of agricultural,
 1664 vegetable, ~~or~~ flower, tree, or shrub seed which is sold, offered
 1665 for sale, exposed for sale, or distributed for sale within this
 1666 state for sowing ~~or planting~~ purposes must ~~shall~~ bear thereon or
 1667 have attached thereto, in a conspicuous place, ~~a label or labels~~
 1668 ~~containing all information required under this section,~~ plainly
 1669 written or printed label or tag in the English language, ~~in~~
 1670 ~~Century type.~~ All data pertaining to analysis shall appear on a
 1671 single label. Language setting forth the requirements for filing
 1672 and serving complaints as described in s. 578.26(1)(c) must ~~or~~
 1673 ~~578.26(1)(b) shall~~ be included on the analysis label or be
 1674 otherwise attached to the package, except for packages
 1675 containing less than 1,000 seeds by count.

1676 (1) ~~FOR TREATED SEED.~~— For all treated agricultural,
 1677 vegetable, ~~or~~ flower, tree, or shrub seed ~~treated~~ as defined in
 1678 this chapter:

1679 (a) A word or statement indicating that the seed has been
 1680 treated ~~or description of process used.~~

1681 (b) The commonly accepted coined, chemical, or abbreviated
 1682 chemical (generic) name of the applied substance or description

1683 ~~of the process used and the words "poison treated" in red~~
 1684 ~~letters, in not less than 1/4 inch type.~~

1685 (c) If the substance in the amount present with the seed
 1686 is harmful to humans or other vertebrate animals, a caution
 1687 statement such as "Do not use for food, feed, or oil purposes."
 1688 The caution for mercurials, Environmental Protection Agency
 1689 Toxicity Category 1 as referenced in 7 C.F.R. 201.31a(c)(2), and
 1690 similarly toxic substances shall be designated by a poison
 1691 statement or symbol.

1692 ~~(d) Rate of application or statement "Treated at~~
 1693 ~~manufacturer's recommended rate."~~

1694 (d)(e) If the seed is treated with an inoculant, the date
 1695 beyond which the inoculant is not to be considered effective
 1696 (date of expiration).

1697
 1698 A label separate from other labels required by this section or
 1699 other law may be used to identify seed treatments as required by
 1700 this subsection.

1701 (2) For agricultural seed, including lawn and turf grass
 1702 seed and mixtures thereof: ~~AGRICULTURAL SEED.~~

1703 ~~Commonly accepted~~ The name of the kind and variety of
 1704 ~~each agricultural seed~~ component present in excess of 5 percent
 1705 of the whole, and the percentage by weight of each in the order
 1706 of its predominance. Where more than one component is required
 1707 to be named, the word "mixed," "mixture," or "blend" must ~~the~~

1708 ~~word "mixed" shall~~ be shown conspicuously on the label. Hybrids
 1709 must be labeled as hybrids.

1710 (b) Lot number or other lot identification.

1711 (c) Net weight or seed count.

1712 (d) Origin, if known. If the origin is ~~if~~ unknown, that
 1713 fact must ~~shall~~ be stated.

1714 (e) Percentage by weight of all weed seed.

1715 (f) ~~The~~ Name and number of noxious weed seed per pound, if
 1716 present per pound of each kind of restricted noxious weed seed.

1717 (g) Percentage by weight of agricultural seed which may be
 1718 designated as other crop seed, other than those required to be
 1719 named on the label.

1720 (h) Percentage by weight of inert matter.

1721 (i) For each named agricultural seed, including lawn and
 1722 turf grass seed:

1723 1. Percentage of germination, exclusive of hard or dormant
 1724 seed;

1725 2. Percentage of hard or dormant seed, if ~~when~~ present, ~~if~~
 1726 ~~desired;~~ and

1727 3. The calendar month and year the test was completed to
 1728 determine such percentages, provided that the germination test
 1729 must have been completed within the previous 9 months, exclusive
 1730 of the calendar month of test.

1731 (j) Name and address of the person who labeled said seed
 1732 or who sells, distributes, offers, or exposes said seed for sale

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1733 within this state.

1734

1735 The sum total of the percentages listed pursuant to paragraphs
 1736 (a), (e), (g), and (h) must be equal to 100 percent.

1737 (3) For seed that is coated:

1738 (a) Percentage by weight of pure seed with coating
 1739 material removed. The percentage of coating material may be
 1740 included with the inert matter percentage or may be listed
 1741 separately.

1742 (b) Percentage of germination. This percentage must be
 1743 determined based on an examination of 400 coated units with or
 1744 without seed.

1745

1746 In addition to the requirements of this subsection, labeling of
 1747 coated seed must also comply with the requirements of any other
 1748 subsection pertaining to that type of seed. ~~FOR VEGETABLE SEED~~
 1749 ~~IN CONTAINERS OF 8 OUNCES OR MORE.~~

1750 ~~(a) Name of kind and variety of seed.~~

1751 ~~(b) Net weight or seed count.~~

1752 ~~(c) Lot number or other lot identification.~~

1753 ~~(d) Percentage of germination.~~

1754 ~~(e) Calendar month and year the test was completed to~~
 1755 ~~determine such percentages.~~

1756 ~~(f) Name and address of the person who labeled said seed~~
 1757 ~~or who sells, distributes, offers or exposes said seed for sale~~

1758 ~~within this state.~~

1759 ~~(g) For seed which germinate less than the standard last~~
 1760 ~~established by the department the words "below standard," in not~~
 1761 ~~less than 8-point type, must be printed or written in ink on the~~
 1762 ~~face of the tag, in addition to the other information required.~~
 1763 ~~Provided, that no seed marked "below standard" shall be sold~~
 1764 ~~which falls more than 20 percent below the standard for such~~
 1765 ~~seed which has been established by the department, as authorized~~
 1766 ~~by this law.~~

1767 ~~(h) The name and number of restricted noxious weed seed~~
 1768 ~~per pound.~~

1769 (4) For combination mulch, seed, and fertilizer products:

1770 (a) The word "combination" followed, as appropriate, by
 1771 the words "mulch - seed - fertilizer" must appear prominently on
 1772 the principal display panel of the package.

1773 (b) If the product is an agricultural seed placed in a
 1774 germination medium, mat, tape, or other device or is mixed with
 1775 mulch or fertilizer, it must also be labeled with all of the
 1776 following:

- 1777 1. Product name.
- 1778 2. Lot number or other lot identification.
- 1779 3. Percentage by weight of pure seed of each kind and
 1780 variety named which may be less than 5 percent of the whole.
- 1781 4. Percentage by weight of other crop seed.
- 1782 5. Percentage by weight of inert matter.

- 1783 6. Percentage by weight of weed seed.
- 1784 7. Name and number of noxious weed seeds per pound, if
 1785 present.
- 1786 8. Percentage of germination, and hard or dormant seed if
 1787 appropriate, of each kind or kind and variety named. The
 1788 germination test must have been completed within the previous 12
 1789 months exclusive of the calendar month of test.
- 1790 9. The calendar month and year the test was completed to
 1791 determine such percentages.
- 1792 10. Name and address of the person who labeled the seed,
 1793 or who sells, offers, or exposes the seed for sale within the
 1794 state.
- 1795
- 1796 The sum total of the percentages listed pursuant to
 1797 subparagraphs 3., 4., 5., and 6. must be equal to 100 percent.
- 1798 (5) For vegetable seed in packets as prepared for use in
 1799 home gardens or household plantings or vegetable seeds in
 1800 preplanted containers, mats, tapes, or other planting devices:
 1801 ~~FOR VEGETABLE SEED IN CONTAINERS OF LESS THAN 8 OUNCES.—~~
- 1802 (a) Name of kind and variety of seed. Hybrids must be
 1803 labeled as hybrids.
- 1804 (b) Lot number or other lot identification.
- 1805 (c) Germination test date identified in the following
 1806 manner:
- 1807 1. The calendar month and year the germination test was

1808 completed and the statement "Sell by ...(month/year)...", which
 1809 may be no more than 12 months from the date of test, beginning
 1810 with the month after the test date;

1811 2. The month and year the germination test was completed,
 1812 provided that the germination test must have been completed
 1813 within the previous 12 months, exclusive of the calendar month
 1814 of test; or

1815 3. The year for which the seed was packaged for sale as
 1816 "Packed for ...(year)..." and the statement "Sell by
 1817 ...(year)..." which shall be one year after the seed was
 1818 packaged for sale.

1819 (d)(b) Name and address of the person who labeled the seed
 1820 or who sells, ~~distributes,~~ offers, or exposes said seed for sale
 1821 within this state.

1822 (e)(e) For seed which germinate less than standard last
 1823 established by the department, ~~the additional information must~~
 1824 ~~be shown:~~

1825 1. Percentage of germination, exclusive of hard or dormant
 1826 seed.

1827 2. Percentage of hard or dormant seed ~~when present,~~ if
 1828 present desired.

1829 ~~3. Calendar month and year the test was completed to~~
 1830 ~~determine such percentages.~~

1831 ~~3.4.~~ The words "Below Standard" prominently displayed in
 1832 ~~not less than 8-point type.~~

1833
 1834 (f)~~(d)~~ No seed marked "below standard" may ~~shall~~ be sold
 1835 that falls which fall more than 20 percent below the established
 1836 standard for such seed. For seeds that do not have an
 1837 established standard, the minimum germination standard shall be
 1838 50 percent, and no such seed may be sold that is 20 percent
 1839 below this standard.

1840 (g) For seed placed in a germination medium, mat, tape, or
 1841 other device in such a way as to make it difficult to determine
 1842 the quantity of seed without removing the seeds from the medium,
 1843 mat, tape or device, a statement to indicate the minimum number
 1844 of seeds in the container.

1845 (6) For vegetable seed in containers, other than packets
 1846 prepared for use in home gardens or household plantings, and
 1847 other than preplanted containers, mats, tapes, or other planting
 1848 devices:

1849 (a) The name of each kind and variety present of any seed
 1850 in excess of 5 percent of the total weight in the container, and
 1851 the percentage by weight of each type of seed in order of its
 1852 predominance. Hybrids must be labeled as hybrids.

1853 (b) Net weight or seed count.

1854 (c) Lot number or other lot identification.

1855 (d) For each named vegetable seed:

1856 1. Percentage germination, exclusive of hard or dormant
 1857 seed;

1858 2. Percentage of hard or dormant seed, if present;
 1859 3. Listed below the requirements of subparagraphs 1. and
 1860 2., the "total germination and hard or dormant seed" may be
 1861 stated as such, if desired; and
 1862 4. The calendar month and year the test was completed to
 1863 determine the percentages specified in subparagraphs 1. and 2.,
 1864 provided that the germination test must have been completed
 1865 within 9 months, exclusive of the calendar month of test.
 1866 (e) Name and address of the person who labeled the seed,
 1867 or who sells, offers, or exposes the seed for sale within this
 1868 state.
 1869 (f) For seed which germinate less than the standard last
 1870 established by the department, the words "Below Standard"
 1871 prominently displayed.
 1872 1. No seed marked "Below Standard" may be sold if the seed
 1873 is more than 20 percent below the established standard for such
 1874 seed.
 1875 2. For seeds that do not have an established standard, the
 1876 minimum germination standard shall be 50 percent, and no such
 1877 seed may be sold that is 20 percent below this standard.
 1878 (7)(5) For flower seed in packets prepared for use in home
 1879 gardens or household plantings or flower seed in preplanted
 1880 containers, mats, tapes, or other planting devices: ~~FOR FLOWER~~
 1881 ~~SEED IN PACKETS PREPARED FOR USE IN HOME GARDENS OR HOUSEHOLD~~
 1882 ~~PLANTINGS OR FLOWER SEED IN PREPLANTED CONTAINERS, MATS, TAPES,~~

1883 ~~OR OTHER PLANTING DEVICES.~~

1884 (a) For all kinds of flower seed:

1885 1. The name of the kind and variety or a statement of type
 1886 and performance characteristics as prescribed in the rules and
 1887 regulations adopted ~~promulgated~~ under the provisions of this
 1888 chapter.

1889 2. Germination test date, identified in the following
 1890 manner:

1891 a. The calendar month and year the germination test was
 1892 completed and the statement "Sell by ...(month/year)...". The
 1893 sell by date must be no more than 12 months from the date of
 1894 test, beginning with the month after the test date;

1895 b. The year for which the seed was packed for sale as
 1896 "Packed for ...(year)..." and the statement "Sell by
 1897 ...(year)..." which shall be for a calendar year; or

1898 c. The calendar month and year the test was completed,
 1899 provided that the germination test must have been completed
 1900 within the previous 12 months, exclusive of the calendar month
 1901 of test.

1902 ~~2. The calendar month and year the seed was tested or the~~
 1903 ~~year for which the seed was packaged.~~

1904 3. The name and address of the person who labeled said
 1905 seed, or who sells, offers, or exposes said seed for sale within
 1906 this state.

1907 (b) For seed of those kinds for which standard testing

1908 | procedures are prescribed and which germinate less than the
 1909 | germination standard last established under the provisions of
 1910 | this chapter:

1911 | 1. The percentage of germination exclusive of hard or
 1912 | dormant seed.

1913 | 2. Percentage of hard or dormant seed, if present.

1914 | 3. The words "Below Standard" prominently displayed ~~in not~~
 1915 | ~~less than 8-point type.~~

1916 | (c) For seed placed in a germination medium, mat, tape, or
 1917 | other device in such a way as to make it difficult to determine
 1918 | the quantity of seed without removing the seed from the medium,
 1919 | mat, tape, or device, a statement to indicate the minimum number
 1920 | of seed in the container.

1921 | (8)(6) For flower seed in containers other than packets
 1922 | and other than preplanted containers, mats, tapes, or other
 1923 | planting devices and not prepared for use in home flower gardens
 1924 | or household plantings: FOR FLOWER SEED IN CONTAINERS OTHER THAN
 1925 | PACKETS PREPARED FOR USE IN HOME FLOWER GARDENS OR HOUSEHOLD
 1926 | PLANTINGS AND OTHER THAN PREPLANTED CONTAINERS, MATS, TAPES, OR
 1927 | OTHER PLANTING DEVICES.

1928 | (a) The name of the kind and variety, and for wildflowers,
 1929 | the genus and species and subspecies, if appropriate ~~or a~~
 1930 | ~~statement of type and performance characteristics as prescribed~~
 1931 | ~~in rules and regulations promulgated under the provisions of~~
 1932 | ~~this chapter.~~

- 1933 (b) Net weight or seed count.
- 1934 (c) ~~(b)~~ The Lot number or other lot identification.
- 1935 (d) For flower seed with a pure seed percentage of less
- 1936 than 90 percent:
- 1937 1. Percentage, by weight, of each component listed in
- 1938 order of its predominance.
- 1939 2. Percentage by weight of weed seed, if present.
- 1940 3. Percentage by weight of other crop seed.
- 1941 4. Percentage by weight of inert matter.
- 1942 (e) For those kinds of seed for which standard testing
- 1943 procedures are prescribed:
- 1944 1. Percentage germination exclusive of hard or dormant
- 1945 seed.
- 1946 2. Percentage of hard or dormant seed, if present.
- 1947 3. ~~(e)~~ The calendar month and year that the test was
- 1948 completed. The germination test must have been completed within
- 1949 the previous 9 months, exclusive of the calendar month of test.
- 1950 (f) For those kinds of seed for which standard testing
- 1951 procedures are not available, the year of production or
- 1952 collection ~~seed were tested or the year for which the seed were~~
- 1953 packaged.
- 1954 (g) ~~(d)~~ The name and address of the person who labeled said
- 1955 seed or who sells, offers, or exposes said seed for sale within
- 1956 this state.
- 1957 ~~(e) For those kinds of seed for which standard testing~~

1958 ~~procedures are prescribed:~~

1959 ~~1. The percentage germination exclusive of hard seed.~~

1960 ~~2. The percentage of hard seed, if present.~~

1961 ~~(h)(f) For these seeds which germinate less than the~~

1962 ~~standard last established by the department, the words "Below~~

1963 ~~Standard" prominently displayed in not less than 8 point type~~

1964 ~~must be printed or written in ink on the face of the tag.~~

1965 (9) For tree or shrub seed:

1966 (a) Common name of the species of seed and, if

1967 appropriate, subspecies.

1968 (b) The scientific name of the genus, species, and, if

1969 appropriate, subspecies.

1970 (c) Lot number or other lot identification.

1971 (d) Net weight or seed count.

1972 (e) Origin, indicated in the following manner:

1973 1. For seed collected from a predominantly indigenous

1974 stand, the area of collection given by latitude and longitude or

1975 geographic description, or political subdivision, such as state

1976 or county.

1977 2. For seed collected from other than a predominantly

1978 indigenous stand, the area of collection and the origin of the

1979 stand or the statement "Origin not Indigenous".

1980 3. The elevation or the upper and lower limits of

1981 elevations within which the seed was collected.

1982 (f) Purity as a percentage of pure seed by weight.

1983 (g) For those species for which standard germination
 1984 testing procedures are prescribed by the department:
 1985 1. Percentage germination exclusive of hard or dormant
 1986 seed.
 1987 2. Percentage of hard or dormant seed, if present.
 1988 3. The calendar month and year test was completed,
 1989 provided that the germination test must have been completed
 1990 within the previous 12 months, exclusive of the calendar month
 1991 of test.
 1992 (h) In lieu of subparagraphs (g)1., 2., and 3., the seed
 1993 may be labeled "Test is in progress; results will be supplied
 1994 upon request."
 1995 (i) For those species for which standard germination
 1996 testing procedures have not been prescribed by the department,
 1997 the calendar year in which the seed was collected.
 1998 (j) The name and address of the person who labeled the
 1999 seed or who sells, offers, or exposes the seed for sale within
 2000 this state.
 2001 ~~(7) DEPARTMENT TO PRESCRIBE UNIFORM ANALYSIS TAG. The~~
 2002 ~~department shall have the authority to prescribe a uniform~~
 2003 ~~analysis tag required by this section.~~
 2004
 2005 The information required by this section to be placed on labels
 2006 attached to seed containers may not be modified or denied in the
 2007 labeling or on another label attached to the container. However,

2008 labeling of seed supplied under a contractual agreement may be
 2009 by invoice accompanying the shipment or by an analysis tag
 2010 attached to the invoice if each bag or other container is
 2011 clearly identified by a lot number displayed on the bag or other
 2012 container. Each bag or container that is not so identified must
 2013 carry complete labeling.

2014 Section 36. Section 578.091, Florida Statutes, is
 2015 repealed.

2016 Section 37. Subsections (2) and (3) of section 578.10,
 2017 Florida Statutes, are amended to read:

2018 578.10 Exemptions.—

2019 (2) The provisions of ss. 578.09 and 578.13 do not apply
 2020 to:

2021 (a) ~~The~~ Seed or grain not intended for sowing or planting
 2022 purposes.

2023 (b) ~~The~~ Seed stored ~~in storage~~ in, consigned to, or being
 2024 transported to seed cleaning or processing establishments for
 2025 cleaning or processing only. Any labeling or other
 2026 representation which may be made with respect to the unclean
 2027 seed is ~~shall be~~ subject to this law.

2028 (c) Seed under development or maintained exclusively for
 2029 research purposes.

2030 (3) If seeds cannot be identified by examination thereof,
 2031 a person is not subject to the criminal penalties of this
 2032 chapter for having sold or offered for sale seeds subject to

2033 this chapter which were incorrectly labeled or represented as to
 2034 kind, species, and, if appropriate, subspecies, variety, type,
 2035 or origin, elevation, and, if required, year of collection
 2036 unless he or she has failed to obtain an invoice, genuine
 2037 grower's or tree seed collector's declaration, or other labeling
 2038 information and to take such other precautions as may be
 2039 reasonable to ensure the identity of the seeds to be as stated
 2040 by the grower. A genuine grower's declaration of variety must
 2041 affirm that the grower holds records of proof of identity
 2042 concerning parent seed, such as invoice and labels ~~No person~~
 2043 ~~shall be subject to the criminal penalties of this law for~~
 2044 ~~having sold, offered, exposed, or distributed for sale in this~~
 2045 ~~state any agricultural, vegetable, or forest tree seed which~~
 2046 ~~were incorrectly labeled or represented as to kind and variety~~
 2047 ~~or origin, which seed cannot be identified by examination~~
 2048 ~~thereof, unless she or he has failed to obtain an invoice or~~
 2049 ~~grower's declaration giving kind and variety and origin.~~

2050 Section 38. Section 578.11, Florida Statutes, is amended
 2051 to read:

2052 578.11 Duties, authority, and rules of the department.—

2053 (1) The duty of administering this law and enforcing its
 2054 provisions and requirements shall be vested in the Department of
 2055 Agriculture and Consumer Services, which is hereby authorized to
 2056 employ such agents and persons as in its judgment shall be
 2057 necessary therefor. It shall be the duty of the department,

2058 which may act through its authorized agents, to sample, inspect,
 2059 make analyses of, and test agricultural, vegetable, flower, ~~or~~
 2060 ~~forest~~ tree, or shrub seed transported, sold, offered or exposed
 2061 for sale, or distributed within this state for sowing or
 2062 planting purposes, at such time and place and to such extent as
 2063 it may deem necessary to determine whether said agricultural,
 2064 vegetable, flower, ~~or forest~~ tree, or shrub seed are in
 2065 compliance with the provisions of this law, and to notify
 2066 promptly the person who transported, distributed, sold, offered
 2067 or exposed the seed for sale, of any violation.

2068 (2) The department is authorized to:

2069 (a) ~~To~~ Enforce this chapter ~~act~~ and prescribe the methods
 2070 of sampling, inspecting, testing, and examining agricultural,
 2071 vegetable, flower, ~~or forest~~ tree, or shrub seed.

2072 (b) ~~To~~ Establish standards and tolerances to be followed
 2073 in the administration of this law, which shall be in general
 2074 accord with officially prescribed practices in interstate
 2075 commerce.

2076 (c) ~~To~~ Prescribe uniform labels.

2077 (d) ~~To~~ Adopt prohibited and restricted noxious weed seed
 2078 lists.

2079 (e) ~~To~~ Prescribe limitations for each restricted noxious
 2080 weed to be used in enforcement of this chapter ~~act~~ and to add or
 2081 subtract therefrom from time to time as the need may arise.

2082 (f) ~~To~~ Make commercial tests of seed and to fix and

2083 collect charges for such tests.

2084 (g) ~~To~~ List the kinds of flower, and forest tree, and
 2085 shrub seed subject to this law.

2086 (h) ~~To~~ Analyze samples, as requested by a consumer. The
 2087 department shall establish, by rule, a fee schedule for
 2088 analyzing samples at the request of a consumer. The fees shall
 2089 be sufficient to cover the costs to the department for taking
 2090 the samples and performing the analysis, not to exceed \$150 per
 2091 sample.

2092 (i) ~~To~~ Adopt rules pursuant to ss. 120.536(1) and 120.54
 2093 to implement ~~the provisions of~~ this chapter act.

2094 (j) ~~To~~ Establish, by rule, requirements governing aircraft
 2095 used for the aerial application of seed, including requirements
 2096 for recordkeeping, annual aircraft registration, secure storage
 2097 when not in use, area-of-application information, and reporting
 2098 any sale, lease, purchase, rental, or transfer of such aircraft
 2099 to another person.

2100 (3) For the purpose of carrying out ~~the provisions of~~ this
 2101 law, the department, through its authorized agents, is
 2102 authorized to:

2103 (a) ~~To~~ Enter upon any public or private premises, where
 2104 agricultural, vegetable, flower, ~~or forest tree, or shrub~~ seed
 2105 is sold, offered, exposed, or distributed for sale during
 2106 regular business hours, in order to have access to seed subject
 2107 to this law and the rules and regulations hereunder.

2108 (b) ~~To~~ Issue and enforce a stop-sale notice or order to
 2109 the owner or custodian of any lot of agricultural, vegetable,
 2110 flower, ~~or forest tree,~~ or shrub seed, which the department
 2111 finds or has good reason to believe is in violation of any
 2112 provisions of this law, which shall prohibit further sale,
 2113 barter, exchange, or distribution of such seed until the
 2114 department is satisfied that the law has been complied with and
 2115 has issued a written release or notice to the owner or custodian
 2116 of such seed. After a stop-sale notice or order has been issued
 2117 against or attached to any lot of seed and the owner or
 2118 custodian of such seed has received confirmation that the seed
 2119 does not comply with this law, she or he has ~~shall have~~ 15 days
 2120 beyond the normal test period within which to comply with the
 2121 law and obtain a written release of the seed. ~~The provisions of~~
 2122 This paragraph may ~~shall~~ not be construed as limiting the right
 2123 of the department to proceed as authorized by other sections of
 2124 this law.

2125 (c) ~~To~~ Establish and maintain a seed laboratory, employ
 2126 seed analysts and other personnel, and incur such other expenses
 2127 as may be necessary to comply with these provisions.

2128 Section 39. Section 578.12, Florida Statutes, is amended
 2129 to read:

2130 578.12 Stop-sale, stop-use, removal, or hold orders.—When
 2131 agricultural, vegetable, flower, ~~or forest tree,~~ or shrub seed
 2132 is being offered or exposed for sale or held in violation of any

2133 of the provisions of this chapter, the department, through its
 2134 authorized representative, may issue and enforce a stop-sale,
 2135 stop-use, removal, or hold order to the owner or custodian of
 2136 said seed ordering it to be held at a designated place until the
 2137 law has been complied with and said seed is released in writing
 2138 by the department or its authorized representative. If seed is
 2139 not brought into compliance with this law it shall be destroyed
 2140 within 30 days or disposed of by the department in such a manner
 2141 as it shall by regulation prescribe.

2142 Section 40. Section 578.13, Florida Statutes, is amended
 2143 to read:

2144 578.13 Prohibitions.—

2145 (1) It shall be unlawful for any person to sell,
 2146 distribute for sale, offer for sale, expose for sale, handle for
 2147 sale, or solicit orders for the purchase of any agricultural,
 2148 vegetable, flower, ~~or forest tree,~~ or shrub, seed within this
 2149 state:

2150 (a) Unless the test to determine the percentage of
 2151 germination required by s. 578.09 has ~~shall have~~ been completed
 2152 ~~within a period of 7 months, exclusive of the calendar month in~~
 2153 ~~which the test was completed,~~ immediately prior to sale,
 2154 exposure for sale, offering for sale, or transportation, except
 2155 for a germination test for seed in hermetically sealed
 2156 containers which is provided for in s. 578.092 ~~s. 578.28~~.

2157 (b) Not labeled in accordance with ~~the provisions of this~~

2158 law, or having false or misleading labeling.

2159 (c) Pertaining to which there has been a false or
2160 misleading advertisement.

2161 (d) Containing noxious weed seeds subject to tolerances
2162 and methods of determination prescribed in the rules and
2163 regulations under this law.

2164 (e) Unless a seed license has been obtained in accordance
2165 with ~~the provisions of~~ this law.

2166 (f) Unless such seed conforms to the definition of a "lot
2167 ~~of seed.~~"

2168 (2) It shall be unlawful for a ~~any~~ person within this
2169 state to:

2170 (a) ~~To~~ Detach, deface, destroy, or use a second time any
2171 label or tag provided for in this law or in the rules and
2172 regulations made and promulgated hereunder or to alter or
2173 substitute seed in a manner that may defeat the purpose of this
2174 law.

2175 (b) ~~To~~ Disseminate any false or misleading advertisement
2176 concerning agricultural, vegetable, flower, ~~or forest~~ tree ,or
2177 shrub seed in any manner or by any means.

2178 (c) ~~To~~ Hinder or obstruct in any way any authorized person
2179 in the performance of her or his duties under this law.

2180 (d) ~~To~~ Fail to comply with a stop-sale order or to move,
2181 handle, or dispose of any lot of seed, or tags attached to such
2182 seed, held under a "stop-sale" order, except with express

2183 permission of the department and for the purpose specified by
 2184 the department ~~or seizure order.~~

2185 (e) Label, advertise, or otherwise represent seed subject
 2186 to this chapter to be certified seed or any class thereof,
 2187 including classes such as "registered seed," "foundation seed,"
 2188 "breeder seed" or similar representations, unless:

2189 1. A seed certifying agency determines that such seed
 2190 conformed to standards of purity and identify as to the kind,
 2191 variety, or species and, if appropriate, subspecies and the seed
 2192 certifying agency also determines that tree or shrub seed was
 2193 found to be of the origin and elevation claimed, in compliance
 2194 with the rules and regulations of such agency pertaining to such
 2195 seed; and

2196 2. The seed bears an official label issued for such seed
 2197 by a seed certifying agency certifying that the seed is of a
 2198 specified class and specified to the kind, variety, or species
 2199 and, if appropriate, subspecies.

2200 (f) Label, by variety name, seed not certified by an
 2201 official seed-certifying agency when it is a variety for which a
 2202 certificate of plant variety protection under the United States
 2203 Plant Variety Protection Act, 7 U.S.C. 2321 et. seq., specifies
 2204 sale only as a class of certified seed, except that seed from a
 2205 certified lot may be labeled as to variety name when used in a
 2206 mixture by, or with the written approval of, the owner of the
 2207 variety. ~~To sell, distribute for sale, offer for sale, expose~~

2208 ~~for sale, handle for sale, or solicit orders for the purchase of~~
 2209 ~~any agricultural, vegetable, flower, or forest tree seed labeled~~
 2210 ~~"certified seed," "registered seed," "foundation seed," "breeder~~
 2211 ~~seed," or similar terms, unless it has been produced and labeled~~
 2212 ~~under seal in compliance with the rules and regulations of any~~
 2213 ~~agency authorized by law.~~

2214 (g) ~~(f)~~ ~~To~~ Fail to keep a complete record, including a file
 2215 sample which shall be retained for 1 year after seed is sold, of
 2216 each lot of seed and to make available for inspection such
 2217 records to the department or its duly authorized agents.

2218 (h) ~~(g)~~ ~~To~~ Use the name of the Department of Agriculture
 2219 and Consumer Services or Florida State Seed Laboratory in
 2220 connection with analysis tag, labeling advertisement, or sale of
 2221 any seed in any manner whatsoever.

2222 Section 41. Section 578.14, Florida Statutes, is repealed.

2223 Section 42. Subsection (1) of section 578.181, Florida
 2224 Statutes, is amended to read:

2225 578.181 Penalties; administrative fine.—

2226 (1) The department may enter an order imposing one or more
 2227 of the following penalties against a person who violates this
 2228 chapter or the rules adopted under this chapter or who impedes,
 2229 obstructs, ~~or~~ hinders, or otherwise attempts to prevent the
 2230 department from performing its duty in connection with
 2231 ~~performing its duties under~~ this chapter:

2232 (a) For a minor violation, issuance of a warning letter.

2233 (b) For violations other than a minor violation:
 2234 1. Imposition of an administrative fine in the Class I
 2235 category pursuant to s. 570.971 for each occurrence ~~after the~~
 2236 ~~issuance of a warning letter.~~
 2237 2. ~~(e)~~ Revocation or suspension of the registration as a
 2238 seed dealer.
 2239 Section 43. Section 578.23, Florida Statutes, is amended
 2240 to read:
 2241 578.23 ~~Dealers' Records to be kept available.~~ Each person
 2242 who allows his or her name or brand to appear on the label as
 2243 handling agricultural, vegetable, flower, tree, or shrub seeds
 2244 subject to this chapter must keep, for 2 years, complete records
 2245 of each lot of agricultural, vegetable, flower, tree, or shrub
 2246 seed handled, and keep for 1 year after final disposition a file
 2247 sample of each lot of seed. All such records and samples
 2248 pertaining to the shipment or shipments involved must be
 2249 accessible for inspection by the department or its authorized
 2250 representative during normal business hours ~~Every seed dealer~~
 2251 ~~shall make and keep for a period of 3 years satisfactory records~~
 2252 ~~of all agricultural, vegetable, flower, or forest tree seed~~
 2253 ~~bought or handled to be sold, which records shall at all times~~
 2254 ~~be made readily available for inspection, examination, or audit~~
 2255 ~~by the department. Such records shall also be maintained by~~
 2256 ~~persons who purchase seed for production of plants for resale.~~
 2257 Section 44. Section 578.26, Florida Statutes, is amended

2258 to read:

2259 578.26 Complaint, investigation, hearings, findings, and
 2260 recommendation prerequisite to legal action.-

2261 (1)(a) When any buyer ~~farmer~~ is damaged by the failure of
 2262 agricultural, vegetable, flower, ~~or forest~~ tree, or shrub seed
 2263 planted in this state to produce or perform as represented by
 2264 the labeling of such ~~label attached to the~~ seed as required by
 2265 s. 578.09, as a prerequisite to her or his right to maintain a
 2266 legal action against the dealer from whom the seed was
 2267 purchased, the buyer must ~~farmer shall~~ make a sworn complaint
 2268 against the dealer alleging damages sustained. The complaint
 2269 shall be filed with the department, and a copy of the complaint
 2270 shall be served by the department on the dealer by certified
 2271 mail, within such time as to permit inspection of the property,
 2272 crops, plants, or trees referenced in, or related to, the
 2273 buyer's complaint by the seed investigation and conciliation
 2274 council or its representatives and by the dealer from whom the
 2275 seed was purchased.

2276 (b) For types of claims specified in paragraph (a), the
 2277 buyer may not commence legal proceedings against the dealer or
 2278 assert such a claim as a counterclaim or defense in any action
 2279 brought by the dealer until the findings and recommendations of
 2280 the seed investigation and conciliation council are transmitted
 2281 to the complainant and the dealer.

2282 (c) ~~(b)~~ Language setting forth the requirement for filing

2283 and serving the complaint shall be legibly typed or printed on
 2284 the analysis label or be attached to the package containing the
 2285 seed at the time of purchase by the buyer ~~farmer~~.

2286 ~~(d)(e)~~ A nonrefundable filing fee of \$100 shall be paid to
 2287 the department with each complaint filed. However, the
 2288 complainant may recover the filing fee cost from the dealer upon
 2289 the recommendation of the seed investigation and conciliation
 2290 council.

2291 (2) Within 15 days after receipt of a copy of the
 2292 complaint, the dealer shall file with the department her or his
 2293 answer to the complaint and serve a copy of the answer on the
 2294 buyer ~~farmer~~ by certified mail. ~~Upon receipt of the findings and~~
 2295 ~~recommendation of the arbitration council, the department shall~~
 2296 ~~transmit them to the farmer and to the dealer by certified mail.~~

2297 (3) The department shall refer the complaint and the
 2298 answer thereto to the seed investigation and conciliation
 2299 council provided in s. 578.27 for investigation, informal
 2300 hearing, findings, and recommendation on the matters complained
 2301 of.

2302 (a) Each party must ~~shall~~ be allowed to present its side
 2303 of the dispute at an informal hearing before the seed
 2304 investigation and conciliation council. Attorneys may be present
 2305 at the hearing to confer with their clients. However, no
 2306 attorney may participate directly in the proceeding.

2307 (b) Hearings, including the deliberations of the seed

2308 investigation and conciliation council, must ~~shall~~ be open to
 2309 the public.

2310 (c) Within 30 days after completion of a hearing, the seed
 2311 investigation and conciliation council shall transmit its
 2312 findings and recommendations to the department. Upon receipt of
 2313 the findings and recommendation of the seed investigation and
 2314 conciliation council, the department shall transmit them to the
 2315 buyer ~~farmer~~ and to the dealer by certified mail.

2316 (4) The department shall provide administrative support
 2317 for the seed investigation and conciliation council and shall
 2318 mail a copy of the council's procedures to each party upon
 2319 receipt of a complaint by the department.

2320 Section 45. Subsections (1), (2), and (4) of section
 2321 578.27, Florida Statutes, are amended to read:

2322 578.27 Seed investigation and conciliation council;
 2323 composition; purpose; meetings; duties; expenses.—

2324 (1) The Commissioner of Agriculture shall appoint a seed
 2325 investigation and conciliation council composed of seven members
 2326 ~~and seven alternate members~~, one member ~~and one alternate~~ to be
 2327 appointed upon the recommendation of each of the following: the
 2328 deans of extension and research, Institute of Food and
 2329 Agricultural Sciences, University of Florida; president of the
 2330 Florida Seed ~~Seedsmen and Garden Supply~~ Association; president
 2331 of the Florida Farm Bureau Federation; and the president of the
 2332 Florida Fruit and Vegetable Association. The Commissioner of

2333 Agriculture shall appoint a representative ~~and an alternate~~ from
 2334 the agriculture industry at large and from the Department of
 2335 Agriculture and Consumer Services. Each member shall be
 2336 appointed for a term of 4 years or less and shall serve until
 2337 his or her successor is appointed ~~Initially, three members and~~
 2338 ~~their alternates shall be appointed for 4-year terms and four~~
 2339 ~~members and their alternates shall be appointed for 2-year~~
 2340 ~~terms. Thereafter, members and alternates shall be appointed for~~
 2341 ~~4-year terms. Each alternate member shall serve only in the~~
 2342 ~~absence of the member for whom she or he is an alternate. A~~
 2343 vacancy shall be filled for the remainder of the unexpired term
 2344 in the same manner as the original appointment. The council
 2345 shall annually elect a chair from its membership. It shall be
 2346 the duty of the chair to conduct all meetings and deliberations
 2347 held by the council and to direct all other activities of the
 2348 council. The department representative shall serve as secretary
 2349 of the council. It shall be the duty of the secretary to keep
 2350 accurate and correct records on all meetings and deliberations
 2351 and perform other duties for the council as directed by the
 2352 chair.

2353 (2) The purpose of the seed investigation and conciliation
 2354 council is to assist buyers ~~farmers~~ and ~~agricultural~~ seed
 2355 dealers in determining the validity of seed complaints made by
 2356 buyers ~~farmers~~ against dealers and recommend a settlement, when
 2357 appropriate, cost damages resulting from the alleged failure of

2358 the seed to produce or perform as represented by the label of
 2359 such ~~on the~~ seed ~~package~~.

2360 (4) (a) When the department refers to the seed
 2361 investigation and conciliation council any complaint made by a
 2362 buyer ~~farmer~~ against a dealer, the ~~said~~ council must ~~shall~~ make
 2363 a full and complete investigation of the matters complained of
 2364 and at the conclusion of the ~~said~~ investigation must ~~shall~~
 2365 report its findings and make its recommendation ~~of cost damages~~
 2366 and file same with the department.

2367 (b) In conducting its investigation, the seed
 2368 investigation and conciliation council or any representative,
 2369 member, or members thereof are authorized to examine the buyer's
 2370 property, crops, plants, or trees referenced in or relating to
 2371 the complaint ~~farmer on her or his farming operation of which~~
 2372 ~~she or he complains~~ and the dealer on her or his packaging,
 2373 labeling, and selling operation of the seed alleged to be
 2374 faulty; to grow to production a representative sample of the
 2375 alleged faulty seed through the facilities of the state, under
 2376 the supervision of the department when such action is deemed to
 2377 be necessary; to hold informal hearings at a time and place
 2378 directed by the department or by the chair of the council upon
 2379 reasonable notice to the buyer ~~farmer~~ and the dealer.

2380 (c) Any investigation made by less than the whole
 2381 membership of the council must ~~shall~~ be by authority of a
 2382 written directive by the department or by the chair, and such

2383 investigation must ~~shall~~ be summarized in writing and considered
 2384 by the council in reporting its findings and making its
 2385 recommendation.

2386 Section 46. Section 578.28, Florida Statutes, is
 2387 renumbered as section 578.092, Florida Statutes, and amended to
 2388 read:

2389 578.092 ~~578.28~~ Seed in hermetically sealed containers.—The
 2390 period of validity of germination tests is extended to the
 2391 following periods for seed packaged in hermetically sealed
 2392 containers, under conditions and label requirements set forth in
 2393 this section:

2394 (1) GERMINATION TESTS.—The germination test for
 2395 agricultural and vegetable seed must ~~shall~~ have been completed
 2396 within the following periods, exclusive of the calendar month in
 2397 which the test was completed, immediately prior to shipment,
 2398 delivery, transportation, or sale:

2399 (a) In the case of agricultural or vegetable seed shipped,
 2400 delivered, transported, or sold to a dealer for resale, 18
 2401 months;

2402 (b) In the case of agricultural or vegetable seed for sale
 2403 or sold at retail, 24 months.

2404 (2) CONDITIONS OF PACKAGING.—The following conditions are
 2405 considered as minimum:

2406 (a) *Hermetically sealed packages or containers.*—A
 2407 container, to be acceptable under the provisions of this

2408 | section, shall not allow water vapor penetration through any
 2409 | wall, including the wall seals, greater than 0.05 gram of water
 2410 | per 24 hours per 100 square inches of surface at 100 °F. with a
 2411 | relative humidity on one side of 90 percent and on the other of
 2412 | 0 percent. Water vapor penetration (WVP) is measured by the
 2413 | standards of the National Institute of Standards and Technology
 2414 | as: gm H₂O/24 hr./100 sq. in./100 °F/90 percent RH V. 0 percent
 2415 | RH.

2416 | (b) *Moisture of seed packaged.*—The moisture of
 2417 | agricultural or vegetable seed subject to the provisions of this
 2418 | section shall be established by rule of the department.

2419 | (3) LABELING REQUIRED.—In addition to the labeling
 2420 | required by s. 578.09, seed packaged under the provisions of
 2421 | this section shall be labeled with the following information:

2422 | (a) Seed has been preconditioned as to moisture content.

2423 | (b) Container is hermetically sealed.

2424 | (c) "Germination test valid until (month, year)" may be
 2425 | used. (Not to exceed 24 months from date of test).

2426 | Section 47. Section 578.29, Florida Statutes, is created
 2427 | to read:

2428 | 578.29 Prohibited noxious weed seed.—Seeds meeting the
 2429 | definition of prohibited noxious weed seed under s. 578.011, may
 2430 | not be present in agricultural, vegetable, flower, tree, or
 2431 | shrub seed offered or exposed for sale in this state.

2432 | Section 48. Subsection (1) of section 590.02, Florida

2433 Statutes, is amended to read:

2434 590.02 Florida Forest Service; powers, authority, and
 2435 duties; liability; building structures; Withlacoochee Training
 2436 Center.—

2437 (1) The Florida Forest Service has the following powers,
 2438 authority, and duties to:

2439 (a) ~~To~~ Enforce the provisions of this chapter;

2440 (b) ~~To~~ Prevent, detect, and suppress wildfires wherever
 2441 they may occur on public or private land in this state and to do
 2442 all things necessary in the exercise of such powers, authority,
 2443 and duties;

2444 (c) ~~To~~ Provide firefighting crews, who shall be under the
 2445 control and direction of the Florida Forest Service and its
 2446 designated agents;

2447 (d) ~~To~~ Appoint center managers, forest area supervisors,
 2448 forestry program administrators, a forest protection bureau
 2449 chief, a forest protection assistant bureau chief, a field
 2450 operations bureau chief, deputy chiefs of field operations,
 2451 district managers, forest operations administrators, senior
 2452 forest rangers, investigators, forest rangers, firefighter
 2453 rotorcraft pilots, and other employees who may, at the Florida
 2454 Forest Service's discretion, be certified as forestry
 2455 firefighters pursuant to s. 633.408(8). Other law
 2456 notwithstanding, center managers, district managers, forest
 2457 protection assistant bureau chief, and deputy chiefs of field

2458 operations have ~~shall have~~ Selected Exempt Service status in the
 2459 state personnel designation;

2460 (e) ~~To~~ Develop a training curriculum for forestry
 2461 firefighters which must contain the basic volunteer structural
 2462 fire training course approved by the Florida State Fire College
 2463 of the Division of State Fire Marshal and a minimum of 250 hours
 2464 of wildfire training;

2465 (f) Pay the cost of the initial commercial driver license
 2466 examination fee for those employees whose position requires them
 2467 to operate equipment requiring a license. This paragraph is
 2468 intended to be an authorization to the department to pay such
 2469 costs, not an obligation;

2470 ~~(f) To make rules to accomplish the purposes of this~~
 2471 ~~chapter;~~

2472 (g) ~~To~~ Provide fire management services and emergency
 2473 response assistance and to set and charge reasonable fees for
 2474 performance of those services. Moneys collected from such fees
 2475 shall be deposited into the Incidental Trust Fund of the Florida
 2476 Forest Service;

2477 (h) ~~To~~ Require all state, regional, and local government
 2478 agencies operating aircraft in the vicinity of an ongoing
 2479 wildfire to operate in compliance with the applicable state
 2480 Wildfire Aviation Plan; ~~and~~

2481 (i) ~~To~~ Authorize broadcast burning, prescribed burning,
 2482 pile burning, and land clearing debris burning to carry out the

2483 duties of this chapter and the rules adopted thereunder; and
 2484 (j) Make rules to accomplish the purposes of this chapter.
 2485 Section 49. Paragraph (c) of subsection (6) and subsection
 2486 (9) of section 790.06, Florida Statutes, are amended to read:
 2487 790.06 License to carry concealed weapon or firearm.—
 2488 (6)
 2489 (c) The Department of Agriculture and Consumer Services
 2490 shall, within 90 days after the date of receipt of the items
 2491 listed in subsection (5):
 2492 1. Issue the license; or
 2493 2. Deny the application based solely on the ground that
 2494 the applicant fails to qualify under the criteria listed in
 2495 subsection (2) or subsection (3). If the Department of
 2496 Agriculture and Consumer Services denies the application, it
 2497 shall notify the applicant in writing, stating the ground for
 2498 denial and informing the applicant of any right to a hearing
 2499 pursuant to chapter 120.
 2500 3. In the event the department receives incomplete
 2501 criminal history information or ~~with~~ no final disposition on a
 2502 crime which may disqualify the applicant, the Department of
 2503 Agriculture and Consumer Services must expedite efforts to
 2504 acquire the final disposition or proof of restoration of civil
 2505 and firearm rights, or confirmation that clarifying records are
 2506 not available from the jurisdiction where the criminal history
 2507 originated. Ninety days after the date of receipt of the

2508 completed application, if the department has not acquired final
 2509 disposition or proof of restoration of civil and firearm rights,
 2510 or confirmation that clarifying records are not available from
 2511 the jurisdiction where the criminal history originated, the
 2512 department shall issue the license in the absence of
 2513 disqualifying information. However, such license must be
 2514 immediately suspended and revoked upon receipt of disqualifying
 2515 information pursuant to this section ~~time limitation prescribed~~
 2516 ~~by this paragraph may be suspended until receipt of the final~~
 2517 ~~disposition or proof of restoration of civil and firearm rights.~~

2518 (9) In the event that a concealed weapon or firearm
 2519 license is lost or destroyed, the license shall be automatically
 2520 invalid, and the person to whom the same was issued may, upon
 2521 payment of \$15 to the Department of Agriculture and Consumer
 2522 Services, obtain a duplicate, or substitute thereof, upon
 2523 furnishing a ~~notarized~~ statement under oath to the Department of
 2524 Agriculture and Consumer Services that such license has been
 2525 lost or destroyed.

2526 Section 50. Subsections (5) and (8) of section 790.0625,
 2527 Florida Statutes, are amended, and sections (9) and (10) are
 2528 added to that section, to read:

2529 790.0625 Appointment of tax collectors to accept
 2530 applications for a concealed weapon or firearm license; fees;
 2531 penalties.-

2532 (5) A tax collector appointed under this section shall

2533 collect and remit weekly to the department the license fees
 2534 pursuant to s. 790.06 for deposit in the Division of Licensing
 2535 Trust Fund and may collect and retain a convenience fees for the
 2536 following: fee of \$22 for each new application and \$12 for each
 2537 renewal application and shall remit weekly to the department the
 2538 license fees pursuant to s. 790.06 for deposit in the Division
 2539 of Licensing Trust Fund.

2540 (a) Twenty-two dollars for each new application.

2541 (b) Twelve dollars for each renewal application.

2542 (c) Twelve dollars for each duplicate license issued to
 2543 replace a lost or destroyed license.

2544 (d) Six dollars for fingerprinting.

2545 (e) Six dollars for photographing services associated with
 2546 the completion of an application submitted online.

2547 (8) Upon receipt of a completed renewal application, a new
 2548 color photograph, and ~~appropriate~~ payment of required fees, a
 2549 tax collector authorized to accept renewal applications for
 2550 concealed weapon or firearm licenses under this section may,
 2551 upon approval and confirmation of license issuance by the
 2552 department, print and deliver a concealed weapon or firearm
 2553 license to a licensee renewing his or her license at the tax
 2554 collector's office.

2555 (9) Upon receipt of a statement under oath to the
 2556 department, and the payment of required fees, a tax collector
 2557 authorized to accept applications for concealed weapon or

2558 firearm licenses under this section may, upon approval and
 2559 confirmation from the department that a license is in good
 2560 standing, print and deliver a concealed weapon or firearm
 2561 license to a licensee whose license has been lost or destroyed.

2562 (10) Tax collectors authorized to accept applications for
 2563 concealed weapon or firearm licenses under this section may
 2564 provide fingerprinting and photographing services to aid
 2565 concealed weapon and firearm applicants and licensees with
 2566 online initial and renewal applications.

2567 Section 51. Section 817.417, Florida Statutes, is created
 2568 to read:

2569 817.417 Government Impostor and Deceptive Advertisement
 2570 Act.—

2571 (1) SHORT TITLE.—This act may be cited as the "Government
 2572 Impostor and Deceptive Advertisements Act."

2573 (2) DEFINITIONS.—As used in this section:

2574 (a) "Advertisement" means any representation disseminated
 2575 in any manner or by any means, other than by a label, for the
 2576 purpose of inducing, or which is reasonably likely to induce,
 2577 directly or indirectly, a purchase.

2578 (b) "Department" means the Department of Agriculture and
 2579 Consumer Services.

2580 (c) "Governmental entity" means a political subdivision or
 2581 agency of any state, possession, or territory of the United
 2582 States, or the Federal Government, including, but not limited

2583 to, a board, a department, an office, an agency, a military
 2584 veteran entity, or a military or veteran service organization by
 2585 whatever name known.

2586 (3) DUTIES AND RESPONSIBILITIES.—The department has the
 2587 duty and responsibility to:

2588 (a) Investigate potential violations of this section.

2589 (b) Request and obtain information regarding potential
 2590 violations of this section.

2591 (c) Seek compliance with this section.

2592 (d) Enforce this section.

2593 (e) Adopt rules necessary to administer this section.

2594 (4) VIOLATIONS.—Each occurrence of the following acts or
 2595 practices constitute a violation of this section:

2596 (a) Disseminating an advertisement that:

2597 1. Simulates a summons, complaint, jury notice, or other
 2598 court, judicial, or administrative process of any kind.

2599 2. Represents, implies, or otherwise engages in an action
 2600 that may reasonably cause confusion that the person using or
 2601 employing the advertisement is a part of or associated with a
 2602 governmental entity, when such is not true.

2603 (b) Representing, implying, or otherwise reasonably
 2604 causing confusion that goods, services, an advertisement, or an
 2605 offer was disseminated by or has been approved, authorized, or
 2606 endorsed, in whole or in part, by a governmental entity, when
 2607 such is not true.

2608 (c) Using or employing language, symbols, logos,
 2609 representations, statements, titles, names, seals, emblems,
 2610 insignia, trade or brand names, business or control tracking
 2611 numbers, website or e-mail addresses, or any other term, symbol,
 2612 or other content that represents or implies or otherwise
 2613 reasonably causes confusion that goods, services, an
 2614 advertisement, or an offer is from a governmental entity, when
 2615 such is not true.

2616 (d) Failing to provide the disclosures as required in
 2617 subsections (5) or (6).

2618 (e) Failing to timely submit to the department written
 2619 responses and answers to its inquiries concerning alleged
 2620 practices inconsistent with, or in violation of, this section.
 2621 Responses or answers may include, but are not limited to, copies
 2622 of customer lists, invoices, receipts, or other business
 2623 records.

2624 (5) NOTICE REGARDING DOCUMENT AVAILABILITY.-

2625 (a) Any person offering documents that are available free
 2626 of charge or at a lesser price from a governmental entity must
 2627 provide the notice specified in paragraph (b) on advertisements
 2628 as follows:

2629 1. For printed or written advertisements, notice must be
 2630 in the same font size, color, style, and visibility as primarily
 2631 used elsewhere on the page or envelope and displayed as follows:

2632 a. On the outside front of any mailing envelope used in

2633 disseminating the advertisement.

2634 b. At the top of each printed or written page used in the

2635 advertisement.

2636 2. For electronic advertisements, notice must be in the

2637 same font size, color, style, and visibility as the body text

2638 primarily used in the e-mail or web page and displayed as

2639 follows:

2640 a. At the beginning of each e-mail message, before any

2641 offer or other substantive information.

2642 b. In a prominent location on each web page, such as the

2643 top of each page or immediately following the offer or other

2644 substantive information on the page.

2645 (b) Advertisements specified in paragraph (a) must include

2646 the following disclosure:

2647

2648 "IMPORTANT NOTICE:

2649

2650 The documents offered by this advertisement are available to

2651 Florida consumers free of charge or for a lesser price from

2652 ...(insert name, telephone number, and mailing address of the

2653 applicable governmental entity).... You are NOT required to

2654 purchase anything from this company and the company is NOT

2655 affiliated, endorsed, or approved by any governmental entity.

2656 The item offered in this advertisement has NOT been approved or

2657 endorsed by any governmental agency, and this offer is NOT being

2658 made by an agency of the government."

2659

2660 (6) NOTICE REGARDING CLAIM OF LEGAL COMPLIANCE.—

2661 (a) Any person disseminating an advertisement that
 2662 includes a form or template to be completed by the consumer with
 2663 the claim that such form or template will assist the consumer in
 2664 complying with a legal filing or record retention requirement
 2665 must provide the notice specified in paragraph (b) on
 2666 advertisements as follows:

2667 1. For printed or written advertisements, the notice must
 2668 be in the same font size, color, style, and visibility as
 2669 primarily used elsewhere on the page or envelope and displayed
 2670 as follows:

2671 a. On the outside front of any mailing envelope used in
 2672 disseminating the advertisement.

2673 b. At the top of each printed or written page used in the
 2674 advertisement.

2675 2. For electronic advertisements, the notice must be in
 2676 the same font size, color, style, and visibility as the body
 2677 text primarily used in the e-mail or web page and displayed as
 2678 follows:

2679 a. At the beginning of each e-mail message, before any
 2680 offer or other substantive information.

2681 b. In a prominent location on each web page, such as the
 2682 top of each page or immediately following the offer or other

2683 substantive information on the page.

2684 (b) Advertisements specified in paragraph (a) must include
 2685 the following disclosure:

2687 "IMPORTANT NOTICE:

2689 You are NOT required to purchase anything from this company and
 2690 the company is NOT affiliated, endorsed, or approved by any
 2691 governmental entity. The item offered in this advertisement has
 2692 NOT been approved or endorsed by any governmental agency, and
 2693 this offer is NOT being made by an agency of the government."

2695 (7) PENALTIES.—

2696 (a) Any person substantially affected by a violation of
 2697 this section may bring an action in a court of proper
 2698 jurisdiction to enforce the provisions of this section. A person
 2699 prevailing in a civil action for a violation of this section
 2700 shall be awarded costs, including reasonable attorney fees, and
 2701 may be awarded punitive damages in addition to actual damages
 2702 proven. This provision is in addition to any other remedies
 2703 prescribed by law.

2704 (b) The department may bring one or more of the following
 2705 for a violation of this section:

2706 1. A civil action in circuit court for:

2707 a. Temporary or permanent injunctive relief to enforce

2708 this section.

2709 b. For printed advertisements and e-mail, a fine of up to

2710 \$1,000 for each separately addressed advertisement or message

2711 containing content in violation of paragraphs (4) (a)-(d)

2712 received by or addressed to a state resident.

2713 c. For websites, a fine of up to \$5,000 for each day a

2714 website, with content in violation of paragraphs (4) (a)-(d), is

2715 published and made available to the general public.

2716 d. For violations of paragraph (4) (e), a fine of up to

2717 \$5,000 for each violation.

2718 e. Recovery of restitution and damages on behalf of

2719 persons substantially affected by a violation of this section.

2720 f. The recovery of court costs and reasonable attorney

2721 fees.

2722 2. An action for an administrative fine in the Class III

2723 category pursuant to s. 570.971 for each act or omission which

2724 constitutes a violation under this section.

2725 (c) The department may terminate any investigation or

2726 action upon agreement by the alleged offender to pay a

2727 stipulated fine, make restitution, pay damages to customers, or

2728 satisfy any other relief authorized by this section.

2729 (d) Any person who violates paragraphs (4) (a)-(d) also

2730 commits an unfair and deceptive trade practice in violation of

2731 part II of chapter 501 and is subject to the penalties and

2732 remedies imposed for such violation.

2733 Section 52. Paragraph (m) of subsection (3) of section
 2734 489.105, Florida Statutes, is amended to read:

2735 489.105 Definitions.—As used in this part:

2736 (3) "Contractor" means the person who is qualified for,
 2737 and is only responsible for, the project contracted for and
 2738 means, except as exempted in this part, the person who, for
 2739 compensation, undertakes to, submits a bid to, or does himself
 2740 or herself or by others construct, repair, alter, remodel, add
 2741 to, demolish, subtract from, or improve any building or
 2742 structure, including related improvements to real estate, for
 2743 others or for resale to others; and whose job scope is
 2744 substantially similar to the job scope described in one of the
 2745 paragraphs of this subsection. For the purposes of regulation
 2746 under this part, the term "demolish" applies only to demolition
 2747 of steel tanks more than 50 feet in height; towers more than 50
 2748 feet in height; other structures more than 50 feet in height;
 2749 and all buildings or residences. Contractors are subdivided into
 2750 two divisions, Division I, consisting of those contractors
 2751 defined in paragraphs (a)-(c), and Division II, consisting of
 2752 those contractors defined in paragraphs (d)-(q):

2753 (m) "Plumbing contractor" means a contractor whose
 2754 services are unlimited in the plumbing trade and includes
 2755 contracting business consisting of the execution of contracts
 2756 requiring the experience, financial means, knowledge, and skill
 2757 to install, maintain, repair, alter, extend, or, if not

2758 prohibited by law, design plumbing. A plumbing contractor may
 2759 install, maintain, repair, alter, extend, or, if not prohibited
 2760 by law, design the following without obtaining an additional
 2761 local regulatory license, certificate, or registration: sanitary
 2762 drainage or storm drainage facilities, water and sewer plants
 2763 and substations, venting systems, public or private water supply
 2764 systems, septic tanks, drainage and supply wells, swimming pool
 2765 piping, irrigation systems, and solar heating water systems and
 2766 all appurtenances, apparatus, or equipment used in connection
 2767 therewith, including boilers and pressure process piping and
 2768 including the installation of water, natural gas, liquefied
 2769 petroleum gas and related venting, and storm and sanitary sewer
 2770 lines. The scope of work of the plumbing contractor also
 2771 includes the design, if not prohibited by law, and installation,
 2772 maintenance, repair, alteration, or extension of air-piping,
 2773 vacuum line piping, oxygen line piping, nitrous oxide piping,
 2774 and all related medical gas systems; fire line standpipes and
 2775 fire sprinklers if authorized by law; ink and chemical lines;
 2776 fuel oil and gasoline piping and tank and pump installation,
 2777 except bulk storage plants; and pneumatic control piping
 2778 systems, all in a manner that complies with all plans,
 2779 specifications, codes, laws, and regulations applicable. The
 2780 scope of work of the plumbing contractor applies to private
 2781 property and public property, including any excavation work
 2782 incidental thereto, and includes the work of the specialty

2783 plumbing contractor. Such contractor shall subcontract, with a
 2784 qualified contractor in the field concerned, all other work
 2785 incidental to the work but which is specified as being the work
 2786 of a trade other than that of a plumbing contractor. This
 2787 definition does not limit the scope of work of any specialty
 2788 contractor certified pursuant to s. 489.113(6) and does not
 2789 require certification or registration under this part as a
 2790 category I liquefied petroleum gas dealer, or category V LP gas
 2791 installer, as defined in s. 527.01, ~~or specialty installer~~ who
 2792 is licensed under chapter 527 or an authorized employee of a
 2793 public natural gas utility or of a private natural gas utility
 2794 regulated by the Public Service Commission when disconnecting
 2795 and reconnecting water lines in the servicing or replacement of
 2796 an existing water heater. A plumbing contractor may perform
 2797 drain cleaning and clearing and install or repair rainwater
 2798 catchment systems; however, a mandatory licensing requirement is
 2799 not established for the performance of these specific services.

2800 Section 53. Subsection (3) of section 527.06, Florida
 2801 Statutes, is reenacted to read:

2802 527.06 Rules.—

2803 (3) Rules in substantial conformity with the published
 2804 standards of the National Fire Protection Association (NFPA) are
 2805 deemed to be in substantial conformity with the generally
 2806 accepted standards of safety concerning the same subject matter.

2807 Section 54. This act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES TRUST FUND RE-CREATION STAFF ANALYSIS

BILL #: PCB ANR 18-01 Trust Funds/Re-creation/Land Acquisition Trust Fund/DACS
SPONSOR(S): Agriculture & Natural Resources Appropriations Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Agriculture & Natural Resources Appropriations Subcommittee		White <i>CCW</i>	Pigott <i>SP</i>

I. SUMMARY

Section 19(f), Article III of the State Constitution requires that all newly created trust funds terminate not more than four years after the initial creation unless re-created. This provision requires that a trust fund be created or re-created by a three-fifths vote of the membership in each house of the Legislature in a separate bill for the sole purpose of created or recreating that trust fund. The Land Acquisition Trust Fund was created in the Department of Agriculture and Consumer Services effective July 1, 2015, and is scheduled to terminate on July 1, 2019.

This bill re-creates the Land Acquisition Trust Fund in the Department of Agriculture and Consumer Services effective July 1, 2018, provided that it is enacted by three-fifths of the membership of both houses of the Legislature.

This bill has no fiscal impact.

II. SUBSTANTIVE ANALYSIS

A. PRESENT SITUATION:

1. MAJOR STATUTES THAT CONTROL THE TRUST FUND:

Section 19(f), Article III of the State Constitution requires that all newly created trust funds terminate not more than four years after the initial creation unless re-created. This provision requires that a trust fund be created or re-created by a three-fifths vote of the membership in each house of the Legislature in a separate bill for the sole purpose of created or recreating that trust fund. The Land Acquisition Trust Fund was created in the Department of Agriculture and Consumer Services effective July 1, 2015, by chapter 2015-230, Laws of Florida, in section 20.142, Florida Statutes, and is scheduled to terminate on July 1, 2019.

2. BRIEF DESCRIPTION OF THE FUND'S USES OR PURPOSES:

The trust fund is established for the purposes set forth in s. 28, Art. X of the State Constitution.

3. MAJOR SOURCES OF REVENUE FOR THE FUND:

The trust fund is established for use as a depository for funds received from the Land Acquisition Trust Fund within the Department of Agriculture and Consumer Services.

4. TOTAL PROJECTED RECEIPTS INTO THE FUND AND CURRENT YEAR APPROPRIATIONS FROM THE FUND:

The total projected receipts into this fund and the current year appropriations is \$94,412,454.

B. EFFECT OF PROPOSED CHANGES:

The bill re-creates the trust fund without modification.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

This legislation has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector. It simply re-creates, without modification, an existing state trust fund and continues the current use of the fund.

IV. COMMENTS

None.

V. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

CCW
SP

PCB ANR 18-01

ORIGINAL

2018

1 A bill to be entitled
 2 An act relating to trust funds; re-creating the Land
 3 Acquisition Trust Fund within the Department of
 4 Agriculture and Consumer Services without
 5 modification; repealing s. 20.142(5), F.S.; abrogating
 6 provisions relating to the termination of the trust
 7 fund, to conform; providing an effective date.

8
 9 WHEREAS, the Legislature wishes to extend the life of the
 10 Land Acquisition Trust Fund within the Department of Agriculture
 11 and Consumer Services, which is otherwise scheduled to be
 12 terminated pursuant to constitutional mandate, and

13 WHEREAS, the Legislature has reviewed the trust fund before
 14 its scheduled termination date and has found that it continues
 15 to meet an important public purpose, and

16 WHEREAS, the Legislature has found that existing public
 17 policy concerning the trust fund sets adequate parameters for
 18 its use, NOW, THEREFORE,

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. The Land Acquisition Trust Fund within the
 23 Department of Agriculture and Consumer Services, FLAIR number
 24 42-20-2-423004, which is to be terminated pursuant to Section
 25 19(f), Article III of the State Constitution on July 1, 2019, is

26 re-created.

27 Section 2. Subsection (5) of section 20.142, Florida
28 Statutes, is repealed.

29 Section 3. This act shall take effect July 1, 2018, but it
30 shall not take effect unless it is enacted by a three-fifths
31 vote of the membership of each house of the Legislature.