

1 A bill to be entitled
 2 An act relating to the Department of Agriculture and
 3 Consumer Services; amending s. 482.2401, F.S.; replacing a
 4 requirement that the department use all revenues from
 5 certain administrative fines to support research or
 6 education in pest control with an authorization to use
 7 such available revenues for those purposes; amending s.
 8 487.041, F.S.; revising the conditions establishing which
 9 brands of pesticide must be registered with the
 10 department; requiring the department to publish a list of
 11 active ingredients contained in pesticides for which
 12 registration is required; establishing supplemental
 13 biennial registration fees for certain brands of
 14 pesticide; providing for retroactive assessment of the
 15 supplemental fees; providing for use of the revenues
 16 collected from the fees; requiring the department to adopt
 17 rules; providing for retroactive application; creating s.
 18 531.56, F.S.; requiring a permit for use of a weighing or
 19 measuring device for commercial purposes; providing
 20 requirements for the issuance of permits; establishing
 21 additional requirements applicable to a permitted device
 22 after a change in ownership; providing for expiration of
 23 permits; requiring annual renewal of permits; requiring
 24 late fees under certain circumstances; creating s. 531.57,
 25 F.S.; exempting certain devices from permitting
 26 requirements; creating s. 531.58, F.S.; requiring permit
 27 fees; specifying maximum fees; providing for deposit,
 28 appropriation, and use of funds; creating s. 531.59, F.S.;

29 | authorizing the department to suspend or revoke permits
 30 | under certain circumstances; creating s. 531.60, F.S.;
 31 | prohibiting the department from testing a noncommercial
 32 | device unless a permit is issued for the device; creating
 33 | s. 531.61, F.S.; providing for device application forms,
 34 | permits, certificates, and identification tags or
 35 | stickers; creating s. 531.62, F.S.; prohibiting the
 36 | unpermitted use of commercial weighing and measuring
 37 | devices; providing penalties; amending ss. 576.021 and
 38 | 576.045, F.S.; revising fees for the registration of
 39 | specialty fertilizers; amending s. 578.08, F.S.; revising
 40 | fees for the registration of seed dealers; amending ss.
 41 | 589.08 and 589.081, F.S.; limiting the use of part of the
 42 | gross receipts from certain state forests for schools and
 43 | other purposes to counties that are fiscally constrained;
 44 | providing effective dates.

45 |

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

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48 | Section 1. Subsection (3) of section 482.2401, Florida
 49 | Statutes, is amended to read:

50 | 482.2401 Disposition and use of revenues from fees and
 51 | fines.--

52 | (3) The department may use ~~All~~ revenues from
 53 | administrative fines ~~shall be used~~ to support contract research
 54 | or education in pest control. If revenues are available to
 55 | support such research or education, the department shall appoint
 56 | a committee composed of pest control industry members which

57 shall assist the department in establishing research or
 58 education priorities, in developing requests for proposals for
 59 bids, and in selecting research or education contractors from
 60 qualified bidders.

61 Section 2. Effective upon this act becoming a law and
 62 retroactive to January 1, 2009, subsections (1) and (2) of
 63 section 487.041, Florida Statutes, as amended by section 14 of
 64 chapter 2009-20, Laws of Florida, are amended to read:

65 487.041 Registration.--

66 (1) (a) Effective January 1, 2009, each brand of pesticide,
 67 as defined in s. 487.021 must be registered with the department,
 68 and such registration shall be renewed biennially, if the
 69 brand: ~~which~~

70 1. Contains an active ingredient for which the United
 71 States Environmental Protection Agency has established a food
 72 tolerance limit in 40 C.F.R. part 180. The department shall
 73 biennially publish by rule a list of the pesticide active
 74 ingredients for which registration is required under this
 75 section.

76 2. Is distributed, sold, or offered for sale, except as
 77 provided in this section, within this state or delivered for
 78 transportation or transported in intrastate commerce or between
 79 points within this state through any point outside this state
 80 ~~must be registered in the office of the department, and such~~
 81 ~~registration shall be renewed biennially.~~

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 83 Emergency exemptions from registration may be authorized in
 84 accordance with the rules of the department.

85 **(b)** The registrant shall file with the department a
 86 statement including:

87 1. The name, business mailing address, and street address
 88 of the registrant.

89 2. The name of the brand of pesticide.

90 3. An ingredient statement and a complete copy of the
 91 labeling accompanying the brand of the pesticide, which must
 92 conform to the registration, and a statement of all claims to be
 93 made for it, including directions for use and a guaranteed
 94 analysis showing the names and percentages by weight of each
 95 active ingredient, the total percentage of inert ingredients,
 96 and the names and percentages by weight of each "added
 97 ingredient."

98 **(c)**~~(b)~~ Effective January 1, 2009, for the purpose of
 99 defraying expenses of the department in connection with carrying
 100 out the provisions of this chapter ~~part~~, each registrant ~~person~~
 101 shall pay a biennial registration fee for each registered brand
 102 of pesticide. In addition, effective January 1, 2009, for the
 103 purpose of defraying expenses of the department for the testing
 104 of pesticides for food safety, each registrant shall pay a
 105 supplemental biennial registration fee for each registered brand
 106 of pesticide. The registration of each brand of pesticide shall
 107 cover a designated 2-year period beginning on January 1 of each
 108 odd-numbered year and expiring on December 31 of the following
 109 year.

110 **(d)**~~(e)~~ Each registration issued by the department to a
 111 registrant for a period beginning in an odd-numbered year shall
 112 be assessed a fee of \$700 per brand of pesticide, a supplemental

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113 fee of \$1,200 per brand of pesticide, and a fee of \$200 for each
 114 special local need label and experimental use permit, and the
 115 registration shall expire on December 31 of the following year.
 116 Each registration issued by the department to a registrant for a
 117 period beginning in an even-numbered year shall be assessed a
 118 fee of \$350 per brand of pesticide, a supplemental fee of \$600
 119 per brand of pesticide, and fee of \$100 for each special local
 120 need label and experimental use permit, and the registration
 121 shall expire on December 31 of that year. The department shall
 122 retroactively assess the supplemental registration fee for each
 123 brand of pesticide registered on or after January 1, 2009.

124 (e)-(d) All revenues collected, less those costs determined
 125 by the department to be nonrecurring or one-time costs, shall be
 126 deferred over the 2-year registration period, deposited in the
 127 General Inspection Trust Fund, and used by the department in
 128 carrying out the provisions of this chapter. Revenues collected
 129 from the supplemental registration fee may also be used by the
 130 department for testing pesticides for food safety.

131 (f)-(e) If the renewal of a brand of pesticide, including
 132 the special local need label and experimental use permit, is not
 133 filed by January 31 of the renewal year, an additional fee of
 134 \$25 per brand of pesticide shall be assessed per month and added
 135 to the original fee. This additional fee may not exceed \$250 per
 136 brand of pesticide. The additional fee must be paid by the
 137 registrant before the renewal certificate for the registration
 138 of the brand of pesticide is issued. The additional fee shall be
 139 deposited into the General Inspection Trust Fund.

140 (g)~~(f)~~ This subsection does not apply to distributors or
 141 retail dealers selling brands of pesticide if such brands of
 142 pesticide are registered by another person.

143 (2) The department shall adopt rules governing the
 144 procedures for the registration of a brand of pesticide, ~~and~~ for
 145 the review of data submitted by an applicant for registration of
 146 the brand of pesticide, and for biennially publishing the list
 147 of active ingredients for which a brand of pesticide must be
 148 registered pursuant to subparagraph (1)(a)1. The department
 149 shall determine whether the brand of pesticide should be
 150 registered, registered with conditions, or tested under field
 151 conditions in this state. The department shall determine whether
 152 each request for registration of a brand of pesticide meets the
 153 requirements of current state and federal law. The department,
 154 whenever it deems it necessary in the administration of this
 155 part, may require the manufacturer or registrant to submit the
 156 complete formula, quantities shipped into or manufactured in the
 157 state for distribution and sale, evidence of the efficacy and
 158 the safety of any pesticide, and other relevant data. The
 159 department may review and evaluate a registered pesticide if new
 160 information is made available that indicates that use of the
 161 pesticide has caused an unreasonable adverse effect on public
 162 health or the environment. Such review shall be conducted upon
 163 the request of the State Surgeon General in the event of an
 164 unreasonable adverse effect on public health or the Secretary of
 165 Environmental Protection in the event of an unreasonable adverse
 166 effect on the environment. Such review may result in
 167 modifications, revocation, cancellation, or suspension of the

168 registration of a brand of pesticide. The department, for
 169 reasons of adulteration, misbranding, or other good cause, may
 170 refuse or revoke the registration of the brand of any pesticide
 171 after notice to the applicant or registrant giving the reason
 172 for the decision. The applicant may then request a hearing,
 173 pursuant to chapter 120, on the intention of the department to
 174 refuse or revoke registration, and, upon his or her failure to
 175 do so, the refusal or revocation shall become final without
 176 further procedure. The registration of a brand of pesticide may
 177 not be construed as a defense for the commission of any offense
 178 prohibited under this part.

179 Section 3. Section 531.56, Florida Statutes, is created to
 180 read:

181 531.56 Commercial weighing and measuring devices; permits;
 182 renewals; late fees.--

183 (1) (a) A person may not use any weighing or measuring
 184 device in this state for commercial purposes as defined by
 185 department rule if a permit fee is established for the device in
 186 s. 531.58 unless the device is exempt from permitting under s.
 187 531.57 or the applicable permit fee is paid and a valid permit
 188 is issued by the department for the device.

189 (b) A weighing or measuring device permit issued by the
 190 department pursuant to this section and ss. 531.58-531.62
 191 applies only to the specific device for which the permit is
 192 issued. However, the department may allow a permit to apply to a
 193 replacement for an original device. The department may include
 194 multiple devices on a single permit but must require that the

195 applicable permit fees be paid for the devices in accordance
 196 with s. 531.58.

197 (2) If ownership of a permitted device changes, the
 198 permit:

199 (a) Transfers to the new owner and remains effective until
 200 the permit's original expiration date, if the device remains at
 201 the same location. The new owner must notify the department in
 202 the format prescribed by the department within 30 calendar days
 203 after a change in ownership. The department shall issue an
 204 updated replacement permit if needed.

205 (b) Expires if the device is moved to a new location. The
 206 new owner must apply for a new permit.

207 (3) A weighing or measuring device permit expires 1 year
 208 after the date of issuance and must be renewed annually. If an
 209 application for renewal of a permit is not received by the
 210 department within 30 days after its due date, the applicant must
 211 pay a late fee set by the department not to exceed \$100 in
 212 addition to the permit fee before the department may renew the
 213 permit.

214 Section 4. Section 531.57, Florida Statutes, is created to
 215 read:

216 531.57 Exemptions from permitting.--Sections 531.56-531.62
 217 do not apply to a commercial weighing or measuring device, if
 218 any of the following apply:

219 (1) The device is a taximeter licensed, permitted, or
 220 registered by a weights and measures official appointed by a
 221 county or municipality and is tested for accuracy and compliance

222 with state standards by the official in cooperation with the
 223 state as authorized in s. 531.421.

224 (2) The device is used exclusively for weighing railroad
 225 cars and is tested for accuracy and compliance with state
 226 standards by a private testing agency.

227 (3) The device is used exclusively for measuring petroleum
 228 products subject to the inspection fee under s. 525.09.

229 Section 5. Section 531.58, Florida Statutes, is created to
 230 read:

231 531.58 Permit fees; deposit and use of moneys.--

232 (1) An application for a weighing or measuring device
 233 permit must be accompanied by the applicable permit fees set by
 234 the department. The fees charged for a permit shall be based on
 235 the total number of weighing or measuring devices included in
 236 the permit for use at any time during the period covered by the
 237 permit.

238 (2) The department shall set the permit fees in the
 239 amounts necessary to defray the costs of administering and
 240 enforcing this chapter but not to exceed the following amounts:

241 (a) Weighing devices.--For weighing devices, the permit
 242 fees shall be based on the manufacturer's rated capacity or the
 243 device's design and use but may not exceed the following
 244 amounts:

245 1. For weighing devices whose capacity does not exceed 100
 246 pounds or the metric equivalent, the permit fees may not exceed
 247 the following amounts per retail establishment:

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<u>Number of devices in a single retail establishment:</u>	<u>Maximum fee per retail establishment:</u>
249 <u>1 to 5</u>	\$75
250 <u>6 to 10</u>	\$175
251 <u>11 to 30</u>	\$250
252 <u>More than 30</u>	\$500

254 2. For weighing devices whose capacity exceeds 100 pounds
 255 or the metric equivalent, the permit fees may not exceed the
 256 following amounts per device:

<u>Manufacturer's rated capacity:</u>	<u>Maximum fee per device:</u>
258 <u>At least 100 pounds but does not exceed 5,000</u> <u>pounds or the metric equivalent.</u>	\$200
259 <u>Exceeds 5,000 pounds but does not exceed 20,000</u> <u>pounds or the metric equivalent</u>	\$300
260 <u>Exceeds 20,000 pounds or the</u> <u>metric equivalent</u>	\$400

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Wheel load weighers \$35

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Static railroad track scales \$1,000

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Belt conveyor scales \$500

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In-motion railroad track scales \$1,000

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(b) Measuring devices.--For measuring devices, the permit fees may not exceed the following amounts per device:

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1. For a mass flow meter whose maximum flow rate does not exceed 150 pounds or the metric equivalent per minute, \$100.

2. For a mass flow meter whose maximum flow rate exceeds 150 pounds or the metric equivalent per minute, \$500.

3. For a volumetric flow meter whose maximum flow rate does not exceed 20 gallons or the metric equivalent per minute,

\$50.

4. For a volumetric flow meter whose maximum flow rate exceeds 20 gallons or the metric equivalent per minute, \$100.

5. For a tank whose capacity is less than 500 gallons or the metric equivalent when used as a measure container with or

without gage rods or markers, \$100.

6. For a tank whose capacity is 500 or more gallons or the metric equivalent when used as a measure container with or

without gage rods or markers, \$200.

7. For a taximeter, \$50.

8. For a grain moisture meter, \$25.

9. For a multiple dimension measuring device, \$100.

286 (3) All moneys received by the department pursuant to ss.
 287 531.56-531.62 shall be deposited in the General Inspection Trust
 288 Fund, are continuously appropriated to the department, and shall
 289 be used by the department to administer this chapter.

290 Section 6. Section 531.59, Florida Statutes, is created to
 291 read:

292 531.59 Suspension and revocation of permits.--A weighing
 293 or measuring device permit issued under ss. 531.56-531.62 may be
 294 suspended or revoked by the department if the device for which
 295 the permit was issued is used in violation of this chapter or
 296 rules adopted under this chapter.

297 Section 7. Section 531.60, Florida Statutes, is created to
 298 read:

299 531.60 Noncommercial devices; permit required for testing
 300 by department.--The department may not test a weighing or
 301 measuring device for which a permit fee is established in s.
 302 531.58, even if the device is not used for commercial purposes
 303 as defined by department rule, unless a permit is obtained for
 304 the device and the applicable fee is paid to the department
 305 under ss. 531.58-531.62.

306 Section 8. Section 531.61, Florida Statutes, is created to
 307 read:

308 531.61 Forms, permits, certificates, and identification
 309 tags or stickers; registration application forms.--

310 (1) The department shall prescribe such forms, permits,
 311 certificates, and identification tags or stickers necessary to
 312 administer ss. 531.56-531.62.

313 (2) Upon issuance of a weighing or measuring device
 314 permit, the department shall issue to the applicant a
 315 certificate or other evidence that the device is permitted
 316 pursuant to ss. 531.56-531.62.

317 (3) An application for a weighing or measuring device
 318 permit must be submitted to the department in the format
 319 prescribed by the department. The application must contain the
 320 information required by the department.

321 Section 9. Section 531.62, Florida Statutes, is created to
 322 read:

323 531.62 Notice of violation of unpermitted weighing or
 324 measuring device; tagging or sealing devices to prevent
 325 unpermitted use; penalties.--If a weighing or measuring device
 326 for which a permit fee is established in s. 531.58 is used for
 327 commercial purposes as defined by department rule and a permit
 328 was not obtained for the device, the department may:

329 (1) Prohibit any further commercial use of the unpermitted
 330 device until the applicable permit is issued.

331 (2) Attach to the device such forms, notices, tags, or
 332 seals to prevent the continued unpermitted use of the device.

333 (3) Assess a late fee in accordance with s. 531.56(3).

334 (4) In addition to requiring payment of the applicable
 335 fees required to obtain a valid permit for use of the device,
 336 impose any penalty authorized in s. 531.50(1) against the owner
 337 and any person using the device.

338 Section 10. Paragraph (a) of subsection (2) of section
 339 576.021, Florida Statutes, is amended to read:

340 576.021 Registration and licensing.--

341 (2) (a) A person may not distribute a specialty fertilizer
 342 in this state until it is registered with the department by the
 343 licensee whose name appears on the label. An application for
 344 registration of each grade of specialty fertilizer shall be made
 345 on a form furnished by the department and shall be accompanied
 346 by an annual fee of \$100 for each specialty fertilizer that is
 347 registered ~~for the first five registrations for each grade of~~
 348 ~~each brand. If more than five grades of specialty fertilizer are~~
 349 ~~to be registered by a licensee, the registration fee for the~~
 350 ~~sixth grade registered and for each subsequent grade registered~~
 351 ~~shall be \$25 for each grade of each brand.~~ All specialty
 352 fertilizer registrations expire June 30 each year. All licensing
 353 and registration fees paid to the department under this section
 354 shall be deposited into the State Treasury to be placed in the
 355 General Inspection Trust Fund to be used for the sole purpose of
 356 funding the fertilizer inspection program.

357 Section 11. Paragraph (a) of subsection (2) of section
 358 576.045, Florida Statutes, is amended to read:

359 576.045 Nitrogen and phosphorus; findings and intent;
 360 fees; purpose; best-management practices; waiver of liability;
 361 compliance; rules; exclusions; expiration.--

362 (2) FEES.--

363 (a) In addition to the fees imposed under ss. 576.021 and
 364 576.041, the following supplemental fees shall be collected and
 365 paid by licensees for the sole purpose of implementing this
 366 section:

367 1. One hundred dollars for each license to distribute
 368 fertilizer.

369 2. One hundred dollars for each ~~of the first five~~
 370 specialty fertilizer ~~registrations and \$25 for each~~ registration
 371 ~~after the first five.~~

372 3. Fifty cents per ton for all fertilizer that contains
 373 nitrogen or phosphorus and that is sold in this state.

374 Section 12. Subsection (1) of section 578.08, Florida
 375 Statutes, is amended to read:

376 578.08 Registrations.--

377 (1) Every person, except as provided in subsection (4) and
 378 s. 578.14, before selling, distributing for sale, offering for
 379 sale, exposing for sale, handling for sale, or soliciting orders
 380 for the purchase of any agricultural, vegetable, flower, or
 381 forest tree seed or mixture thereof, shall first register with
 382 the department as a seed dealer. The application for
 383 registration shall include the name and location of each place
 384 of business at which the seed is sold, distributed for sale,
 385 offered for sale, exposed for sale, or handled for sale. The
 386 application for registration shall be accompanied by an annual
 387 registration fee for each such place of business based on the
 388 gross receipts from the sale of such seed for the last preceding
 389 license year as follows:

390 (a)1. Receipts less than \$2,500.01, fee of \$100.~~....\$50~~

391 2. Receipts more than \$2,500 and less than \$5,000.01, fee
 392 of \$200.~~....\$100~~

393 3. Receipts more than \$5,000 and less than \$10,000.01, fee
 394 of \$350.~~....\$175~~

395 4. Receipts more than \$10,000 and less than \$20,000.01,
 396 fee of \$800.~~....\$400~~

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397 5. Receipts more than \$20,000 and less than \$40,000.01,
398 fee of \$1,000.~~....\$500~~

399 6. Receipts more than \$40,000 and less than \$70,000.01,
400 fee of \$1,200.~~....\$600~~

401 7. Receipts more than \$70,000 and less than \$150,000.01,
402 fee of \$1,600.~~....\$800~~

403 8. Receipts more than \$150,000 and less than \$400,000.01,
404 fee of \$2,400.~~....\$1,200~~

405 9. Receipts more than \$400,000, fee of \$4,600.~~....\$2,300~~

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

409 Section 13. Subsection (2) of section 589.08, Florida
410 Statutes, is amended to read:

411 589.08 Land acquisition restrictions.--

412 (2) The division may receive, hold the custody of, and
413 exercise the control of any lands, and set aside into a
414 separate, distinct, and inviolable fund, the proceeds which may
415 be derived from the sales of the products of such lands, the use
416 thereof in any manner, or the sale of such lands, except that
417 ~~save the~~ 25 percent of the proceeds thereof shall ~~to~~ be paid
418 into the State School Fund as provided by law. The division may
419 use and apply such funds for the acquisition, use, custody,
420 management, development, or improvement of any lands vested in
421 or subject to the control of such division. After full payment
422 is has been made to the Federal Government or other grantor for
423 the purchase of a state forest, ~~to the Federal Government or~~
424 ~~other grantor,~~ then 15 percent of the gross receipts from a

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425 state forest shall be paid to the fiscally constrained county or
 426 counties as described in s. 218.67(1) in which the forest ~~it~~ is
 427 located in proportion to the acreage located in each fiscally
 428 constrained county for use by the county or counties for school
 429 purposes.

430 Section 14. Section 589.081, Florida Statutes, is amended
 431 to read:

432 589.081 Withlacoochee State Forest and Goethe State
 433 Forest; payment to counties of portion of gross receipts.--The
 434 Division of Forestry shall pay 15 percent of the gross receipts
 435 from Withlacoochee State Forest and the Goethe State Forest to
 436 each fiscally constrained county as described in s. 218.67(1) in
 437 which a portion of the respective forest is located in
 438 proportion to the forest acreage located in each fiscally
 439 constrained county. The funds must be equally divided between
 440 the board of county commissioners and the school board of each
 441 fiscally constrained county.

442 Section 15. Except as otherwise expressly provided in this
 443 act, this act shall take effect July 1, 2009.