Agriculture Committee

Wednesday, February 22, 2006
1:30 pm - 4:30 pm
214 The Capitol

MEETING PACKET

Allan G. Bense
Speaker

Ralph Poppell
Dwight Stansel
Co-Chairs

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

Agriculture Committee

Start Date and Time:	Wednesday, February 22, 2006 01:30 pm
End Date and Time:	Wednesday, February 22, 2006 04:30 pm
Location:	214 Capitol
Duration:	3.00 hrs

Consideration of the following bill(s):

HB 507 Exemptions from the Tax on Sales, Use, and Other Transactions by Kreegel
HB 641 Animal Service Providers by Russell

Consideration of the following proposed committee bill(s):

PCB AG 06-01 -- Department of Agriculture and Consumer Services

Interim project presentations:

Aerial Fire Suppression
Review of Florida Agricultural Best Management Practices (BMPs)
Burn Authorization Process, Florida Department of Agriculture & Consumer Services' Division of Forestry

NOTICE FINALIZED on 02/10/2006 14:45 by SIMS-DAVIS.LINDA

HB 507

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 507 Exemptions from the Tax on Sales, Use, and Other Transactions
SPONSOR(S): Kreegel and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Agriculture Committee		Kaiser	Reese
2) Finance & Tax Committee			
3) State Resources Council			
4)			
5)			

SUMMARY ANALYSIS

This bill reaffirms the exemption, adopted by the 2005 Legislature, of the 2.5 percent sales tax imposed on purchases of power farm equipment used exclusively by a farmer for the purpose of low-volume irrigation.

There is no fiscal impact to state or local government.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   None

2. Other:

   None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill, as drafted, does not achieve the intended purpose of the sponsor. A strike-all amendment will be offered to achieve the intended purpose.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to exemptions from the tax on sales, use,
3 and other transactions; amending s. 212.08, F.S.;
4 including in the exemption for items in agricultural use
5 certain agricultural machinery or farm equipment used for
6 low-volume irrigation; providing an effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Paragraph (a) of subsection (5) of section
11 212.08, Florida Statutes, is amended to read:
12 212.08 Sales, rental, use, consumption, distribution, and
13 storage tax; specified exemptions.--The sale at retail, the
14 rental, the use, the consumption, the distribution, and the
15 storage to be used or consumed in this state of the following
16 are hereby specifically exempt from the tax imposed by this
17 chapter.
18 (5) EXEMPTIONS; ACCOUNT OF USE.--
19 (a) Items in agricultural use and certain nets.--There are
20 exempt from the tax imposed by this chapter nets designed and
21 used exclusively by commercial fisheries; disinfectants,
22 fertilizers, insecticides, pesticides, herbicides, fungicides,
23 and weed killers used for application on crops or groves,
24 including commercial nurseries and home vegetable gardens, used
25 in dairy barns or on poultry farms for the purpose of protecting
26 poultry or livestock, or used directly on poultry or livestock;
27 portable containers or movable receptacles in which portable
28 containers are placed, used for processing farm products; field

29 and garden seeds, including flower seeds; nursery stock,
30 seedlings, cuttings, or other propagative material purchased for
31 growing stock; seeds, seedlings, cuttings, and plants used to
32 produce food for human consumption; cloth, plastic, and other
33 similar materials used for shade, mulch, or protection from
34 frost or insects on a farm; generators used on poultry farms;
35 agricultural machinery or self-propelled power-drawn farm
36 equipment used exclusively by a farmer on a farm owned, leased,
37 or sharecropped by the farmer for the purpose of low-volume
38 irrigation; and liquefied petroleum gas or other fuel used to
39 heat a structure in which started pullets or broilers are
40 raised; however, such exemption shall not be allowed unless the
41 purchaser or lessee signs a certificate stating that the item to
42 be exempted is for the exclusive use designated herein. Also
43 exempt are cellophane wrappers, glue for tin and glass
44 (apiarists), mailing cases for honey, shipping cases, window
45 cartons, and baling wire and twine used for baling hay, when
46 used by a farmer to contain, produce, or process an agricultural
47 commodity.
48 Section 2. This act shall take effect upon becoming a law.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. HB 507

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Agriculture
2 Representative Kreegel offered the following:
3
4 **Amendment (with title amendment)**
5 Remove everything after the enacting clause and insert:
6 Section 1. Paragraph (a) of subsection (5) of section
7 212.08, Florida Statutes, is amended to read:
8 212.08 Sales, rental, use, consumption, distribution, and
9 storage tax; specified exemptions.--The sale at retail, the
10 rental, the use, the consumption, the distribution, and the
11 storage to be used or consumed in this state of the following
12 are hereby specifically exempt from the tax imposed by this
13 chapter.
14 (5) EXEMPTIONS; ACCOUNT OF USE.--
15 (a) Items in agricultural use and certain nets.--There are
16 exempt from the tax imposed by this chapter nets designed and
17 used exclusively by commercial fisheries; disinfectants,
18 fertilizers, insecticides, pesticides, herbicides, fungicides,
19 and weed killers used for application on crops or groves,
20 including commercial nurseries and home vegetable gardens, used
21 in dairy barns or on poultry farms for the purpose of protecting
22 poultry or livestock, or used directly on poultry or livestock;

23 portable containers or movable receptacles in which portable
24 containers are placed, used for processing farm products; field
25 and garden seeds, including flower seeds; nursery stock,
26 seedlings, cuttings, or other propagative material purchased for
27 growing stock; seeds, seedlings, cuttings, and plants used to
28 produce food for human consumption; cloth, plastic, and other
29 similar materials used for shade, mulch, or protection from
30 frost or insects on a farm; ~~generators used on poultry farms;~~
31 and low-volume or micro-irrigation equipment or components as
32 defined in s. 212.02(33), used in agricultural production
33 ~~liquefied petroleum gas or other fuel used to heat a structure~~
34 ~~in which started pullets or broilers are raised~~; however, such
35 exemption shall not be allowed unless the purchaser or lessee
36 signs a certificate stating that the item to be exempted is for
37 the exclusive use designated herein. Also exempt are cellophane
38 wrappers, glue for tin and glass (apiarists), mailing cases for
39 honey, shipping cases, window cartons, and baling wire and twine
40 used for baling hay, when used by a farmer to contain, produce,
41 or process an agricultural commodity.
42 Section 2. Subsection (33) is added to section 212.02,
43 Florida Statutes, to read:
44 212.02 Definitions.--The following terms and phrases when
45 used in this chapter have the meanings ascribed to them in this
46 section, except where the context clearly indicates a different
47 meaning:
48 (33)"Low-volume or micro-irrigation" means the frequent
49 application of small quantities of water directly on or below
50 the soil surface, usually as discrete drops, tiny streams, or
51 miniature sprays through emitters placed along the water
52 delivery pipes. Low volume and micro-irrigation systems are
53 designed to deliver water at a rate of 45 gallons per hour or

54 less per exit point. The physical components required to apply
55 water by micro-irrigation include all equipment and system
56 components necessary to transport water from the pump or pumping
57 station to the crop through the low-volume or micro-irrigation
58 system. System components include pumps, pumping stations,
59 control stations, filtration equipment pressure regulators,
60 piping, tubing, emitters, valves, fittings, gauges, sensors,
61 sprinklers, and safety devices.
62 Section 3. This act shall take effect upon becoming a law.
63
64 ========== T I T L E A M E N D M E N T ==========
65 Remove the entire title and insert:
66 amending s. 212.08, F.S.; including in the exemption for items
67 in agricultural use certain agricultural or farm equipment used
68 for low-volume or micro-irrigation; amending s. 212.02, F.S.;
69 providing a definition for low-volume or micro-irrigation;
70 providing an effective date.
71
72

HB 641

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 641 Animal Service Providers
SPONSOR(S): Russell
TIED BILLS: **IDEN./SIM. BILLS:** SB 1654

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Agriculture Committee		Kaiser	Reese
2) Business Regulation Committee			
3) State Resources Council			
4)			
5)			

SUMMARY ANALYSIS

This legislation amends the list of exemptions currently contained in the Florida Veterinary Practice Act. The legislation expands the list of exemptions to include an independent contractor providing nonmedical health care service, under the supervision of the animal's owner. The bill limits its effects specifically to livestock, herd, or avian animals. The nonmedical services include, but are not limited to, acupressure, aromatherapy, animal communication, farriery, flower essence therapy, homeopathy, light therapy, magnet therapy, massage therapy, hydrotherapy, nutritional counseling, debeaking, dehorning, and manual equine teeth floating. The bill also allows the owner of a herd animal, raised for food or fiber, to engage an independent contractor to provide routine herd management tasks, such as castration and parasite control.

In addition, the legislation requires the independent contractor to:

- Obtain an occupational license from his/her county of residence;
- Advise each owner of an animal that will be treated of his/her knowledge or experience with the services that will be provided;
- Provide his/her credentials upon the request of each owner of an animal that will be treated;
- Refrain from engaging in animal cruelty; and,
- Refrain from advertising in any way that implies that he/she is a veterinarian.

This bill does not appear to have a fiscal impact on state or local government. The effective date of this legislation is July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard individual liberty: The bill affords animal owners the ability to choose alternative means of health care for their animals.

B. EFFECT OF PROPOSED CHANGES:

The Florida Veterinary Practice Act (Chapter 424, F.S.), "finds that the practice of veterinary medicine is potentially dangerous to the public health and safety if conducted by incompetent and unlicensed practitioners." However, every day in Florida farriers are trimming, shoeing and making decisions regarding horses' hoof care; massage therapists are graduating from human and animal massage schools and providing massage services to animals, particularly those in competition; feed companies and feed store owners are giving advice on nutrition and animal health care; trained and experienced equine dentists are providing equine dentistry services that many veterinarians do not provide; and experienced herd management professionals are dehorning cattle.

Theoretically, all of these individuals could be charged with a felony if a complaint was filed against them and, after an investigation, the Department of Business and Professional Regulation (DBPR) found them to be practicing veterinary medicine without a license; even though all of these services are being provided with the consent of the animals' owners.

Chapter 424, F.S., currently provides exemptions[1] relating to acts or conditions not in violation of the Florida Veterinary Practice Act. This legislation expands the list of exemptions to include an independent contractor providing nonmedical health care service, under the supervision of the animals' owner. The bill limits its effects specifically to livestock, herd, or avian animals. The nonmedical services include, but are not limited to, acupressure, aromatherapy, animal communication, farriery, flower essence therapy, homeopathy, light therapy, magnet therapy, massage therapy, hydrotherapy, nutritional counseling, debeaking, dehorning, and manual equine teeth floating. The bill also allows the owner of a herd animal, raised for food or fiber, to engage an independent contractor to provide routine herd management tasks, such as castration and parasite control.

In addition, the legislation requires the independent contractor to:

- Obtain an occupational license from his/her county of residence;
- Advise each owner of an animal that will be treated of his/her knowledge or experience with the services that will be provided;
- Provide his/her credentials upon the request of each owner of an animal that will be treated;
- Refrain from engaging in animal cruelty; and,
- Refrain from advertising in any way that implies that he/she is a veterinarian.

The Florida Veterinary Medical Association opposes this legislation for the following reasons:

- It creates a new category of animal health care provider, who acts as an alternative to a veterinarian, but is not subject to the same educational or testing requirements as veterinarians;
- It attempts to define services that are medical as "nonmedical" health care services; and
- It provides an exemption for an independent contractor, which is, by definition, different than an employee.

After the 2005 legislative session, when concerns were raised by proponents of this legislation that the use of self-employed individuals on a part-time basis could be considered a violation of the "regular employee" requirements, the Board of Veterinary Medicine (Board) approved a new rule to address this

[1] s. 474.203, F.S.

issue. The Joint Administrative Procedures Committee (JAPC) staff completed a preliminary review of the rule and found some inconsistencies. The Board addressed some of the concerns expressed by JAPC staff and then proceeded with rule adoption, which took place on February 14, 2006. The remaining issues raised by JAPC staff (incorporating the term "spaying" and addressing the "regular employee" issue) will be discussed at the Board's next meeting scheduled for March 14, 2006.

If the Board fails to address the remaining issues through the rule-making process, JAPC staff has the option of preparing an objection. The objection will go before JAPC, with both sides presenting oral arguments. If JAPC rules in favor of the objection, the Board will be given time to propose a new rule to meet the objection. If JAPC rules in favor of the Board, no further action is required.

C. SECTION DIRECTORY:

Section 1: Amends s. 474.203, F.S.; provides an exemption from the Florida Veterinary Practice Act.

Section 2: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None

2. Expenditures:

   None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None

2. Expenditures:

   None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Unknown

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenues in the aggregate, and does not 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:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to animal service providers; amending s.
3 474.203, F.S.; providing that certain independent
4 contractors administering certain nonmedical health care
5 services to animals are exempt from ch. 474, F.S.,
6 relating to veterinary medical practice, subject to
7 certain requirements; providing an effective date.
8
9 Be It Enacted by the Legislature of the State of Florida:
10
11 Section 1. Subsection (9) is added to section 474.203,
12 Florida Statutes, to read:
13 474.203 Exemptions.--This chapter shall not apply to:
14 (9) An independent contractor who, under the supervision
15 of a person who is administering to the ills or injuries of his
16 or her own livestock, herd, or avian animals, provides
17 nonmedical health care services to the animals, including, but
18 not limited to, acupressure, aromatherapy, animal communication,
19 farriery, flower essence therapy, homeopathy, light therapy,
20 magnet therapy, massage therapy, hydrotherapy, nutritional
21 counseling, debeaking, dehorning, and manual equine teeth
22 floating. The owner of a herd animal raised for food or fiber
23 may engage an independent contractor to provide routine herd
24 management tasks, including, but not limited to, castration and
25 parasite control. An independent contractor who provides
26 nonmedical health care services for animals and is not a
27 veterinarian shall:

28 (a) Obtain an occupational license from his or her county
29 of residence.
30 (b) Advise each owner of an animal that will be treated of
31 his or her knowledge or experience with the services that will
32 be provided.
33 (c) Provide his or her credentials upon the request of
34 each owner of an animal that will be treated.
35 (d) Refrain from engaging in animal cruelty.
36 (e) Refrain from advertising in any way that implies that
37 he or she is a veterinarian.
38
39 For the purposes of chapters 465 and 893, persons exempt
40 pursuant to subsection (1), subsection (2), or subsection (4)
41 are deemed to be duly licensed practitioners authorized by the
42 laws of this state to prescribe drugs or medicinal supplies.
43 Section 2. This act shall take effect July 1, 2006.

Amendment No. (for drafter's use only)

Bill No. **HB 641**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Committee hearing bill: Agriculture
2 Representative Russell offered the following:
3
4 **Amendment**
5 Remove everything after the enacting and insert:
6 Section 1. Subsection (5) is amended and subsection (9) is
7 created in section 474.203, Florida Statutes, to read:
8 474.203 Exemptions.--This chapter shall not apply to:
9 (5) Any person, or the person's regular employee,
10 administering to the ills or injuries of her or his own animals,
11 including, but not limited to, castration, spaying, and
12 dehorning of herd animals, unless title has been transferred or
13 employment provided for the purpose of circumventing this law,
14 or an independent contractor, working for the owner of a herd or
15 flock animal, raised for food or fiber, for the purpose of
16 providing routine herd or flock management tasks such as
17 debeaking, castration, dehorning, and parasite control. This
18 exemption shall not apply to out-of-state veterinarians
19 practicing temporarily in the state. However, only a
20 veterinarian may immunize or treat an animal for diseases which

21 are communicable to humans and which are of public health
22 significance.
23 (9)(a) An independent contractor who, under the supervision
24 of a person who is administering to the ills or injuries of his
25 or her own livestock, herd, or flock animals, provides any of
26 the following health care services to such animals: acupressure,
27 aromatherapy, animal communication, farriery, flower essence
28 therapy, homeopathy, light therapy, magnet therapy, massage or
29 other touch therapies, hydrotherapy, nutritional counseling and
30 manual equine teeth floating. For purposes of this subsection,
31 the above described services are nonmedical, which means non-
32 prescription and non-surgical.
33 (b) An independent contractor who provides nonmedical
34 health care services described in this subsection for livestock,
35 herd, or flock animals and is not a veterinarian shall:
36 1. Obtain an occupational license from his or her county
37 of residence.
38 2. Advise each owner of an animal that will be treated of
39 his or her knowledge or experience with the services that will
40 be provided.
41 3. Provide his or her credentials upon the request of
42 each owner of an animal that will be treated.
43 4. Refrain from engaging in animal cruelty.
44 5. Refrain from advertising in any way that implies that
45 he or she is a veterinarian.
46 6. Refrain from diagnosing or prognosticating.
47 (c) For independent contractors offering the following
48 services, they must be able to demonstrate, upon request of the
49 animal owner or an agency of the state, beginning July 1, 2008,
50 that they have completed the following minimum specified hours

51 of training or education in the field, which may include
52 seminars, online education, classes, courses, schools,
53 internships or apprenticeships, case studies, individual
54 tutoring, or distributor or company training. An internship or
55 apprenticeship may comprise up to twenty-five percent of the
56 required minimum training or education hours.
57 1. Animal acupressure - 120 hours
58 2. Aromatherapy - 50 hours, including 5 hours related to
59 animals.
60 3. Flower essence therapy - 50 hours, including 5 hours
61 related to animals.
62 4. Homeopathy - 120 hours, including 20 hours related to
63 animals.
64 5. Light therapy - 20 hours
65 6. Magnet therapy - 20 hours
66 7. Animal massage or other animal touch therapies - 75
67 hours
68 8. Hydrotherapy - 15 hours
69 9. Animal nutritional counseling - 100 hours
70
71 For the purposes of chapters 465 and 893, persons exempt
72 pursuant to subsection (1), subsection (2), or subsection (4)
73 are deemed to be duly licensed practitioners authorized by the
74 laws of this state to prescribe drugs or medicinal supplies.
75

PCB AG 06-01

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB AG 06-01 Department of Agriculture and Consumer Services
SPONSOR(S): Agriculture Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Agriculture Committee		Kaiser	Reese
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

PCB AG 06-01 addresses a variety of issues relating to the Department of Agriculture and Consumer Services. In regards to pest control, the bill amends the definition of "employee" to clarify this person is not independent of, but under the direct control of a licensee who provides compensation, supervision, and the means necessary to perform pest control for the licensee. The bill also requires the identification cardholder be an employee. Additionally, the bill amends the definition of "independent contractor" to be a person or company that meets at least one of the conditions of independent operation. The bill provides more flexibility in the development of rules to accommodate new types of pesticides used for preventive treatments of subterranean termites in new construction. And lastly, the bill expands the products a Limited Commercial Landscape Maintenance (LCLM) certificate holder may apply to include fungicides and allows the LCLM certificate holder to provide proof of insurance once he/she has passed the certification examination.

In regards to mosquito control, the bill clarifies that the exemption to regulation under the pest control law applies only to those programs established and operated in accordance with the provisions of the mosquito control law.

The bill renames the Florida Food Safety and Food Security Advisory Council as the Florida Food Safety and Food Defense Advisory Council. The bill provides for all members of the Soil and Water Conservation Council to be voting members. And lastly, the bill removes the words "Form 51" in reference to the Rabies Vaccination Certificate to conform to federal law.

The bill has no apparent fiscal impact on state or local government. The effective date of this legislation is July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote personal responsibility: By requiring all identification cardholders to be employees of a pest control business licensee, only persons who are adequately trained and supervised may apply pest control substances.

B. EFFECT OF PROPOSED CHANGES:

Pest Control

Currently, each employee who performs pest control for a pest control licensee in Florida is required[1] to have an identification card issued by the Department of Agriculture and Consumer Services (department). Additionally, the law requires the identification card holder to be an employee, as defined by s. 482.021(7), F.S., and prohibits independent contractors from being issued identification cards.[2]

The Bureau of Entomology and Pest Control (bureau), within the department reports that recent investigations have determined that an unknown number of business licensees have been obtaining identification cards for individuals who are operating as independent business entities. Independent business entities who secure their own clients, collect money for their services, and provide their own vehicles and equipment, operate without the level of supervision and training typical of identification cardholders who are truly employees of pest control licensees. The department fears the lack of supervision and training provided to independent business entities, as well as a lack of liability insurance, present a danger to public safety.

The current definition of independent contractor requires several elements of independent activity be present before disciplinary action can be taken against a business licensee and the identification card of the independent contractor can be revoked. The department reports this increases the level of difficulty for developing evidence for a disciplinary action, as well as allowing business licensees to continue to provide identification cards to independent contractors.

The bill amends the definition of "employee" to clarify this person is not independent of, but under the direct control of, a licensee who provides compensation, supervision, and the means necessary to perform pest control for the licensee. The bill also requires the identification cardholder be an employee, as defined in s. 482.021(7), F.S. Additionally, the bill amends the definition of "independent contractor" to be a person or company that meets at least one of the conditions of independent operation.

The department currently has rule-making authority[3] regarding the application of pesticides used in the preventive treatment for subterranean termites for new construction. This provision was established when the primary treatment was the application of large volumes of insecticides to the soil during construction. Since that time, new treatment methods have been developed, such as baiting systems, non-repellant termiticides, and direct application to wood. The bill provides more flexibility in the development of rules regarding these types of treatments.

Florida law[4] establishes a certification category for persons who wish to apply certain low-risk pesticides to plant beds and ornamentals as part of landscape maintenance activities. Only persons who acquire this certification are authorized to perform the application. To date, approximately 3,200 Limited Commercial Landscape Maintenance (LCLM) certifications have been issued to persons who

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[1] s. 482.091(1)(a), F.S.
[2] "Independent contractor" is defined in s. 482.021(12), F.S.
[3] s. 482.051(5), F.S.
[4] s. 482.156, F.S.

work in the landscape maintenance industry and apply pesticides as part of their services. Chapter 482, F.S., places restrictions on the areas and types of pesticides certificate holders may apply. As technology has improved and new products have been developed, current law limits the ability of the certificate holders to perform landscape maintenance activities properly. The bill expands the types of products the certificate holders may apply to include fungicides.

Additionally, current law requires those seeking certification to obtain proof of insurance **prior** to passing the examination. According to the department, this requirement places an undue burden on applicants. The department estimates approximately 30,000 persons in the industry require LCLM certification. Voluntary compliance is, in part, hindered by current statutory requirements. The bill amends current law to require proof of insurance **after** passing the examination. The department believes this will result in increased compliance with the Florida Structural Pest Control Act and increase the number of individuals who will benefit from the pesticide application and safety training provided as part of the certification process.

Mosquito Control

Mosquito control is, in general, regulated by Chapter 388, F.S. Section 482.211, F.S., deals with the establishment and regulation of mosquito control programs operated by local governments. According to the department, a number of private companies have recently begun advertising mosquito control application services for consumers.

The bill clarifies that the exemption to regulation under Chapter 482, F.S., applies only to those programs established and operated in accordance with the provisions of Chapter 388, F.S. The department believes this will prevent unlicensed and untrained operators from conducting pest control activities under the guise of mosquito control.

Florida Food Safety and Food Defense Advisory Council

During the 2003 legislative session, the Florida Food Safety and Food Security Advisory Council (council) was created. The council had previously existed as an *ad hoc* task force created by the Commissioner of Agriculture and Consumer Services to ensure the safety of Florida's food supply in the aftermath of 9-11 and the Mad Cow disease outbreak in Europe. The council is composed of representatives from every facet of the food industry: production, processing, distribution, sales, consumers, food industry groups, experts in food safety, agencies charged with food safety oversight, and legislative representatives. The council provides a forum for presenting, investigating, and evaluating issues of current importance in food safety. During the course of its meetings, it came to the attention of the council that, in many nations, "food security" refers to maintaining an availability of an adequate supply of food. "Food defense" is used to refer to the "protection" of the food supply. The federal government is in the process of making the necessary changes to conform with those in use internationally and encourages states to do the same.

The bill renames the Florida Food Safety and Food Security Advisory Council as the Florida Food Safety and Food Defense Advisory Council.

Soil and Water Conservation Council

Also during the 2003 legislative session, the Agricultural Water Policy Group was integrated into the Soil and Water Conservation Council (council) by adding twelve non-voting *ex officio* members. These members represented the same interest groups that were represented in the Water Policy Group and are appointed by recommendations from the various interest groups.

In the two years since the integration, the council has become more diverse with a high level of participation from all members, voting or not. At the recommendation of the chair of the council, and with the support of the Commissioner of Agriculture, the bill provides for all members of the council to be voting members.

Rabies Vaccination
Due to a change in forms at the federal level, it is necessary to amend current Florida statutes to reflect the change at the state level. The bill removes the words "Form 51" in reference to the Rabies Vaccination Certificate.

C. SECTION DIRECTORY:

Section 1: Amends s. 482.021, F.S.; revising definitions.

Section 2: Amends s. 482.051, F.S.; revising requirements regarding rule adoption as it relates to pesticides for subterranean termites.

Section 3: Amends s. 482.091, F.S.; clarifying provisions related to identification cards for pest control personnel.

Section 4: Amends s. 482.156, F.S.; requiring certification of commercial landscape personnel; revising materials used; removing obsolete provisions relating to fees.

Section 5: Amends s. 482.211, F.S.; providing an exemption for local governments relating to mosquito control.

Section 6: Amends s. 500.033, F.S.; renaming the Florida Food Safety and Food Security Advisory Council.

Section 7: Amends s. 582.03, F.S.; revising the composition of the Soil and Water Conservation Council.

Section 8: Amends s. 828.30, F.S.; updating a reference to the Rabies Vaccination Certificate.

Section 9: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None

2. Expenditures:

   None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None

2. Expenditures:

   None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenues in the aggregate, and does not 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 & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to the Department of Agriculture and
3 Consumer Services; amending s. 482.021, F.S.; revising the
4 definitions of "employee" and "independent contractor" for
5 purposes of pest control regulation; amending s. 482.051,
6 F.S.; revising certain requirements of the department to
7 adopt rules relating to the use of pesticides for
8 preventing subterranean termites in new construction;
9 amending s. 482.091, F.S.; clarifying provisions governing
10 the performance of pest control services; amending s.
11 482.156, F.S.; requiring certification of individual
12 commercial landscape maintenance personnel; revising the
13 types of materials such personnel may use; removing
14 obsolete provisions relating to fees; clarifying
15 requirements relating to proof of education and insurance;
16 amending s. 482.211, F.S.; clarifying exemption of certain
17 mosquito control activities from regulation; amending s.
18 500.033, F.S.; renaming the Florida Food Safety and Food
19 Security Advisory Council as the Florida Food Safety and
20 Food Defense Advisory Council and revising duties
21 accordingly; amending s. 582.06, F.S.; revising the
22 membership of the Soil and Water Conservation Council;
23 amending s. 828.30, F.S.; updating references to the
24 Rabies Vaccination Certificate; providing an effective
25 date.
26
27 Be It Enacted by the Legislature of the State of Florida:
28

29 Section 1. Subsections (7) and (12) of section 482.021,
30 Florida Statutes, are amended to read:
31 482.021 Definitions.--For the purposes of this chapter, and
32 unless otherwise required by the context, the term:
33 (7) "Employee" means a person who is employed by a licensee
34 that provides that person with necessary training, supervision,
35 pesticides, equipment, and insurance and who receives
36 compensation from and is under the personal supervision and
37 direct control of the licensee's certified operator in charge and
38 ~~licensee~~ from whose ~~which~~ compensation ~~of~~ the licensee regularly
39 deducts and matches federal insurance contributions and federal
40 income and Social Security taxes.
41 (12) "Independent contractor" means an entity separate from
42 the licensee that:
43 (a) Receives moneys from a customer which are deposited in
44 a bank account other than that of the licensee;
45 (b) Owns or supplies its own service vehicle, equipment,
46 and pesticides; ~~or~~
47 (c) Maintains a business operation, office, or support
48 staff independent of the licensee's direct control;
49 (d) Pays its own operating expenses such as fuel,
50 equipment, pesticides, and materials; or
51 (e) ~~(c)~~ Pays its own workers' ~~worker's~~ compensation as an
52 independent contractor.
53 Section 2. Subsection (5) of section 482.051, Florida
54 Statutes, is amended to read:
55 482.051 Rules.--The department has authority to adopt rules
56 pursuant to ss. 120.536(1) and 120.54 to implement the provisions
57 of this chapter. Prior to proposing the adoption of a rule, the

58 department shall counsel with members of the pest control
59 industry concerning the proposed rule. The department shall adopt
60 rules for the protection of the health, safety, and welfare of
61 pest control employees and the general public which require:
62 (5) That any pesticide used as the primary preventive
63 treatment for ~~preconstruction treatments for the prevention of~~
64 subterranean termites in new construction be applied in the
65 amount, concentration, and treatment area in accordance with the
66 label; that a copy of the label of the registered pesticide being
67 applied be carried in a vehicle at the site where the pesticide
68 is being applied; and that the licensee maintain for 3 years the
69 record of each preconstruction treatment, indicating the date of
70 treatment, the location or address of the property treated, the
71 total square footage of the structure treated, the type of
72 pesticide applied, the concentration of each substance in the
73 mixture applied, and the total amount of pesticide applied.
74 Section 3. Paragraph (a) of subsection (2) of section
75 482.091, Florida Statutes, is amended to read:
76 482.091 Employee identification cards.--
77 (2)(a) An identification cardholder must be an employee of
78 the licensee and work under the direction and supervision of the
79 licensee's certified operator in charge and shall ~~may~~ not be an
80 independent contractor. An identification cardholder shall
81 operate ~~may perform~~ only ~~pest control services~~ out of, and ~~or~~ for
82 customers assigned ~~arising~~ from, the licensee's licensed business
83 location. An identification cardholder shall ~~may~~ not perform any
84 pest control independently of and without the knowledge of the
85 licensee and the licensee's certified operator in charge and
86 shall ~~may~~ perform pest control only for the licensee's customers.

87 Section 4. Subsections (1), (2), and (3) of section
88 482.156, Florida Statutes, are amended to read:
89 482.156 Limited certification for commercial landscape
90 maintenance personnel.--
91 (1) The department shall establish a limited certification
92 category for individual commercial landscape maintenance
93 personnel to authorize them to apply herbicides for controlling
94 weeds in plant beds and to perform integrated pest management on
95 ornamental plants using ~~the following materials:~~ insecticides and
96 fungicides having the signal word "caution" but not having the
97 word "warning" or "danger" on the label~~, insecticidal soaps,~~
98 ~~horticultural oils, and bacillus thuringiensis formulations~~. The
99 application equipment that may be used by a person certified
100 pursuant to this section is limited to portable, handheld 3-
101 gallon compressed air sprayers or backpack sprayers having no
102 more than a 5-gallon capacity and does not include power
103 equipment.
104 (2)(a) A person seeking limited certification under this
105 section must pass an examination given by the department. Each
106 application for examination must be accompanied by an examination
107 fee set by rule of the department, in an amount of not more than
108 $150 or less than $50~~; however, until a rule setting this fee is~~
109 ~~adopted by the department, the examination fee is $50~~. Prior to
110 the department's issuing a limited certification under this
111 section, each person applying ~~making application~~ for the
112 certification ~~under this section~~ must furnish proof of having a
113 certificate of insurance which states that the employer meets the
114 requirements for minimum financial responsibility for bodily
115 injury and property damage required by s. 482.071(4).

116 (b) To be eligible to take the examination, an applicant
117 must have completed 8 classroom hours of plant bed and ornamental
118 continuing education training approved by the department and
119 provide sufficient proof, according to criteria established by
120 department rule, that the applicant has been in the landscape
121 maintenance business for at least 3 years.
122 ~~(b)~~ The department shall provide the appropriate reference
123 materials for the examination and make the examination readily
124 accessible and available to applicants at least quarterly or as
125 necessary in each county.
126 (3) An application for recertification under this section
127 must be made annually and be accompanied by a recertification fee
128 set by rule of the department, in an amount of not more than $75
129 or less than $25~~; however, until a rule setting this fee is~~
130 ~~adopted by the department, the fee for recertification is $25~~.
131 The application must also be accompanied by proof of having
132 completed 4 classroom hours of acceptable continuing education
133 and the same proof of having a certificate of insurance as is
134 required for issuance of this ~~initial~~ certification. After a
135 grace period not exceeding 30 calendar days following the annual
136 date that recertification is due, a late renewal charge of $50
137 shall be assessed and must be paid in addition to the renewal
138 fee. Unless timely recertified, a certificate automatically
139 expires 180 calendar days after the anniversary recertification
140 date. Subsequent to such expiration, a certificate may be issued
141 only upon successful reexamination and upon payment of the
142 examination fees due.
143 Section 5. Subsection (7) of section 482.211, Florida
144 Statutes, is amended to read:

145 482.211 Exemptions.--This chapter does not apply to:
146 (7) ~~Area~~ Mosquito control activities conducted by a local
147 government or district established under chapter 388 or by a
148 contractor of the local government or district.
149 Section 6. Section 500.033, Florida Statutes, is amended to
150 read:
151 500.033 Florida Food Safety and Food Defense ~~Security~~
152 Advisory Council.--
153 (1) There is created the Florida Food Safety and Food
154 Defense ~~Security~~ Advisory Council for the purpose of serving as a
155 forum for presenting, investigating, and evaluating issues of
156 current importance to the assurance of a safe and secure food
157 supply to the citizens of Florida. The Florida Food Safety and
158 Food Defense ~~Security~~ Advisory Council shall consist of, but not
159 be limited to: the Commissioner of Agriculture or his or her
160 designee; the Secretary of Health or his or her designee; the
161 Secretary of Business and Professional Regulation or his or her
162 designee; the person responsible for domestic security with the
163 ~~Florida~~ Department of Law Enforcement; members representing the
164 production, processing, distribution, and sale of foods;
165 consumers or ~~and/or~~ members of citizens groups; representatives
166 of ~~or~~ food industry groups; scientists or other experts in
167 aspects of food safety from state universities; representatives
168 from local, state, and federal agencies that are charged with
169 responsibilities for food safety or food defense ~~security~~; the
170 chairs of the Agriculture Committees of the Senate and the House
171 of Representatives or their designees; and the chairs of the
172 committees of the Senate and the House of Representatives with
173 jurisdictional oversight of home defense issues or their

174 designees. The Commissioner of Agriculture shall appoint the
175 remaining members. The council shall make periodic reports to the
176 Department of Agriculture and Consumer Services concerning
177 findings and recommendations in the area of food safety and food
178 defense ~~security~~.
179 (2) The council shall consider the development of
180 appropriate advice or recommendations on food safety or food
181 defense ~~security~~ issues. In the discharge of their duties, the
182 council members may receive for review confidential data exempt
183 from the provisions of s. 119.07(1); however, it is unlawful for
184 any member of the council to use the data for his or her
185 advantage or reveal the data to the general public.
186 Section 7. Paragraphs (b) and (c) of subsection (1) of
187 section 582.06, Florida Statutes, are amended to read:
188 582.06 Soil and Water Conservation Council; powers and
189 duties.--
190 (1) COMPOSITION.--The Soil and Water Conservation Council
191 is created in the Department of Agriculture and Consumer Services
192 and shall be composed of 23 members as follows:
193 (b) Twelve ~~nonvoting ex officio~~ members shall include one
194 representative each from the Department of Environmental
195 Protection, the five water management districts, the Institute of
196 Food and Agricultural Sciences at the University of Florida, the
197 United States Department of Agriculture Natural Resources
198 Conservation Service, the Florida Association of Counties, and
199 the Florida League of Cities~~,~~ and two representatives of
200 environmental interests.
201 (c) All members shall be appointed by the commissioner. ~~Ex~~
202 ~~officio~~ Members appointed pursuant to paragraph (b) shall be

203 appointed by the commissioner from recommendations provided by
204 the organization or interest represented.
205 Section 8. Subsection (3) of section 828.30, Florida
206 Statutes, is amended to read:
207 828.30 Rabies vaccination of dogs, cats, and ferrets.--
208 (3) Upon vaccination against rabies, the licensed
209 veterinarian shall provide the animal's owner and the animal
210 control authority with a rabies vaccination certificate. Each
211 animal control authority and veterinarian shall use the ~~Form 51,~~
212 "Rabies Vaccination Certificate~~,~~" of the National Association of
213 State Public Health Veterinarians (NASPHV) or an equivalent form
214 approved by the local government that contains all the
215 information required by the NASPHV Rabies Vaccination Certificate
216 ~~Form 51~~. The veterinarian who administers the rabies vaccine to
217 an animal as required under this section may affix his or her
218 signature stamp in lieu of an actual signature.
219 Section 9. This act shall take effect July 1, 2006.

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

Agriculture Committee

Start Date and Time:	Wednesday, February 22, 2006 01:30 pm
End Date and Time:	Wednesday, February 22, 2006 04:30 pm
Location:	214 Capitol
Duration:	3.00 hrs

Consideration of the following bill(s):

HB 507 Exemptions from the Tax on Sales, Use, and Other Transactions by Kreegel
HB 641 Animal Service Providers by Russell

Consideration of the following proposed committee bill(s):

PCB AG 06-01 -- Department of Agriculture and Consumer Services

Interim project presentations:

Aerial Fire Suppression
Review of Florida Agricultural Best Management Practices (BMPs)
Burn Authorization Process, Florida Department of Agriculture & Consumer Services' Division of Forestry

NOTICE FINALIZED on 02/10/2006 14:45 by SIMS-DAVIS.LINDA

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Committee hearing bill: Agriculture
2 Representative Poppell offered the following:
3
4 **Amendment (with title amendment)**
5 Between lines 185-186, insert:
6 Section 7. Section 570.954, Florida Statutes, is created
7 to read:
8 570.954 Farm to Fuel.–
9 (1) Short title.– This section may be cited as the "Florida
10 Farm to Fuel Act."
11 (2) Legislative findings and intent.--The Legislature finds
12 that:
13 (a) Utilization of Florida crops and biomass for production
14 of bioenergy is important for the state's future energy
15 stability, protection of its environment and continued viability
16 of the state's agriculture industry.
17 (b) The development of bioenergy will help to reduce demand
18 for foreign fuels, reduce pollution, and promote economic
19 growth.
20 (c) There is a need to assist in the production and
21 distribution of bioenergy.

22 (d) The state is ideally positioned to produce bioenergy
23 due to its vast amount of farm acreage and mild climate, which
24 permits crops to be grown virtually year round, and availability
25 of other biomass.
26 (3) Purpose.--This act is intended to provide grants to:
27 (a) Stimulate capital investment in the state and to
28 enhance the market for and promote the production and
29 distribution of bioenergy.
30 (b) Advance the already growing establishment of bioenergy
31 technologies in the state and attract additional bioenergy
32 production in the state.
33 (c) Demonstrate technologies or processes that convert
34 Florida grown crops, agricultural wastes and residues, or other
35 biomass into bioenergy.
36 (4) Definitions.--As used in this act, the term:
37 (a) "Act" means the Florida Farm to Fuel Act.
38 (b) "Biomass" means a power source that is comprised of,
39 but not limited to, combustible residues or gases from forest
40 products manufacturing, agricultural and orchard crops, waste
41 products from livestock and poultry operations and food
42 processing, urban wood waste, municipal solid waste, municipal
43 liquid waste treatment operations, and landfill gas.
44 (c) "Department" means the Department of Agriculture and
45 Consumer Services.
46 (d) "Person" means an individual, partnership, joint
47 venture, private or public corporation, association, firm,
48 public service company, or any other entity, public or private,
49 however organized.
50 (5) Farm to Fuel Grants Program.--

51 (a) The Farm to Fuel Grants Program is established within
52 the department to provide grants for research, development and
53 demonstration of commercial applications of bioenergy
54 technology.
55 (b) Grants for bioenergy projects may be made to any person
56 based on the criteria in this section.
57 (c) Factors the department may consider in awarding grants
58 include, but are not limited to:
59 1. The degree to which the project stimulates in-state
60 capital investment and economic development in metropolitan and
61 rural areas, including the creation of jobs and the future
62 development of a commercial market for bioenergy;
63 2. The degree to which a project produces bioenergy from
64 Florida-grown crops or biomass;
65 3. The degree to which a project demonstrates efficient
66 use of energy and material resources;
67 4. The degree to which the project fosters overall
68 understanding and appreciation of bioenergy technologies;
69 5. The availability of matching funds and in-kind
70 contributions from an applicant;
71 6. Project duration and timeline for expenditures;
72 7. The project has a reasonable assurance of enhancing the
73 value of agricultural products or will expand agribusiness in
74 Florida; and,
75 8. Preliminary market and feasibility research has been
76 conducted by the applicant or others and there is a reasonable
77 assurance of a potential market.
78 (6) Florida Farm to Fuel Advisory Council.--

79 (a) The Commissioner of Agriculture and Consumer Services
80 may appoint a Florida Farm to Fuel Advisory Council pursuant to
81 s. 570.0705.
82 (b) The council shall provide advice and counsel to the
83 Commissioner of Agriculture and Consumer Services on the
84 production of bioenergy in the state.
85 (c) The council shall be comprised of a diverse group of
86 stakeholders, including the agriculture industry, researchers,
87 fuel suppliers, technology manufacturers, environmental
88 interests and others.
89 (7) The department may adopt rules pursuant to ss. 120.536
90 and 120.54 to implement the provisions of this section.
91 Section 8. Farm to Fuel production tax credit.--
92 (1) TAX CREDIT.--For tax years beginning on or after
93 January 1, 2007, a credit against the tax imposed by Chapter 220
94 shall be granted in an amount to be determined as follows:
95 (a) A taxpayer that produces ethanol at a facility located
96 in Florida is entitled to a credit against the taxpayer's state
97 tax liability equal to the product of twenty cents ($.20)
98 multiplied by the number of gallons of ethanol produced at the
99 facility using Florida grown commodities.
100 (b) A taxpayer that produces biodiesel at a facility
101 located in Florida is entitled to a credit against the
102 taxpayer's state tax liability equal to the product of twenty
103 cents ($.20) multiplied by the number of gallons of biodiesel
104 produced at the facility using Florida grown commodities.
105 (2) RULES.--The Department of Revenue shall have the
106 authority to adopt rules relating to the forms required to claim
107 a tax credit under this section, the requirements and basis for

108 establishing an entitlement to a credit, and the examination and
109 audit procedures required to administer this section.
110 (3) REPEAL.--The provisions of this section are repealed
111 on July 1, 2010.
112
113
114 ========== T I T L E A M E N D M E N T ==========
115 Remove line 21 and insert:
116 accordingly; creating s. 570.954, F.S.; creating the "Florida
117 Farm to Fuel Act"; providing legislative findings and intent;
118 providing a purpose; providing definitions; establishing a grant
119 program within the Department of Agriculture and Consumer
120 Services; providing criteria for obtaining grants; establishing
121 a Florida Farm to Fuel Advisory Council; providing duties of the
122 council; providing membership of the council; allowing rule
123 adoption by the Department of Agriculture and Consumer Services;
124 providing a tax credit; providing criteria for obtaining tax
125 credit; allowing rule adoption by the Department of Revenue for
126 implementation of tax credit program; providing for repeal of
127 tax credit on July 1, 2010; amending s. 582.06, F.S.; revising
128 the