

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1922

SPONSOR: Agriculture and Consumer Services Committee and Senator Geller

SUBJECT: Department of Agriculture and Consumer Services

DATE: April 5, 2001                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Poole</u>	<u>AG</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>FT</u>	_____
3.	_____	_____	<u>AGG</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

This bill addresses the following administrative duties of the Department of Agriculture and Consumer Services (department):

- Waives civil liability to the Division of Forestry when equipment, vehicles, or supplies are leased to state, county, or local government entities having fire/rescue responsibilities.
- Authorizes the department and the Department of Environmental Protection to adopt rules governing the distribution of funds for implementation of Best Management Practices with regard to agricultural nonpoint water quality sources.
- Clarifies that farmers are allowed to move certain equipment and supplies from one location to another in a truck defined as a “goat.”
- Clarifies that commercial motor vehicles transporting unprocessed logs or pulpwood must attach a minimum of one amber strobe light on the rear of any load which extends more than four feet beyond the body or the bed of the vehicle.
- Eliminates requirements for the department to report on the use of compost by state agencies.
- Authorizes the department to verify data supporting label claims of termite prevention or protection on pesticide products registered in the state. Authorizes the department to adopt rules specifying performance standards and acceptable test conditions for reviewing data submitted in support of an efficacy claim.
- Authorizes the department to raise the fee cap for a food permit from \$350 to \$1,000. Allows the department to recover the cost of re-inspection of food establishments to verify compliance.
- Mandates that licenses for frozen dessert plants are not transferable and are subject to suspension or revocation.

- Authorizes, in an emergency situation the sale of reconstituted pasteurized milk products that are appropriately labeled, as well as revises references relating to the pasteurized milk ordinance and milk sanitation.
- Authorizes the department to investigate and bring action under Chapter 501, F.S., on behalf of consumers for violation of the laws relating to consumer protection.
- Allows the department to repair or build structures, from existing appropriations, as long as the costs do not exceed \$250,000.
- Repeals obsolete provisions concerning the Florida Organic Farming and Food Act, timber and lumber, and Appaloosa horse racing.
- Clarifies that aquacultural crops are eligible for Agricultural Economic Development Program disaster loans.
- Increases the membership of the Animal Industry Technical Council to include representation for emerging animal industries, such as alligators and ostriches.
- Revises commercial feed laws.
- Prohibits the regulation of care and treatment of livestock and poultry by other agencies when the department has undertaken to do so. Provides for the humane care and treatment of livestock in the state through the adoption of best management practices.
- Provides requirements with respect to veterinarians who may inspect animals for disease. Authorizes the department to suspend or revoke veterinary accreditation for certain unauthorized or unethical practices.
- Revises vaccination requirements for calves.
- Exempts certain cars or vehicles from amusement ride safety standards.
- Provides for the development of acceptable humane euthanasia methods for killing livestock.

This bill amends sections 120.80, 125.27, 201.15, 316.228, 320.08, 403.714, 487.041, 500.09, 500.12, 502.012, 502.014, 502.053, 502.091, 503.041, 550.2625, 550.2633, 570.07, 503.071, 570.244, 570.249, 570.38, 580.031, 580.051, 580.065, 580.091, 580.112, 581.211, 585.002, 585.145, 585.155, 589.19, 616.242, 828.22, 828.23, 828.24, 828.25, 828.26, 427.804, and 559.921, of the Florida Statutes.

This bill creates sections 828.251 and 828.252, of the Florida Statutes.

This bill repeals sections 504.21, 504.22, 504.23, 504.24, 504.25, 504.26, 504.27, 504.28, 504.29, 504.31, 504.32, 504.33, 504.34, 504.35, 504.36, 536.20, 536.21, 536.22, 570.381, and 570.544(10) and (11), of the Florida Statutes.

## **II. Present Situation:**

### ***Consumer Protection***

The Division of Consumer Services has the authority to investigate and bring action under Chapter 501, F.S., Unfair and Deceptive Trade Practices, to enjoin an act or practice, or sale of a product or service and to seek relief on behalf of consumers for violation of laws relating to consumer protection.

***Division of Administration***

Unlike most state agencies, the department owns hundreds of buildings and is often faced with unforeseen capital improvement needs. These facilities are, in many cases, aging and require upkeep directly by the department. Because of the prohibition of initiating fixed capital projects unless specifically appropriated by the Legislature, the department is often limited or restricted in making appropriate repairs, renovations or required construction at its facilities. Being granted the authority for repair, renovation, or construction within its existing infrastructure would resolve these problems.

***Division of Agricultural Environmental Services***

There are approximately 50 registrations for pesticide products labeled for the control of subterranean termites which are available for use in new construction. All of these products include statements attesting to use for protection against subterranean termite infestation. With a few exceptions, these products have been registered for use without being evaluated against an efficacy standard that would provide reasonable assurance that the products are effective in preventing damage or infestation by subterranean termites at the application rates and in the manner of use specified on the label. Without adequate assurance of efficacy, Florida consumers may not be sufficiently protected from economic harm from termite damage.

***Division of Animal Industry***

The Animal Industry Technical Council currently has 11 members representing traditional animal industry groups. New and emerging animal industries such as ostriches, emus, and alligators have developed over time. Representatives of these industries have attended council meetings, but have no official voice, and feel that they do not receive proper representation.

At this time, with approval from the state, the United States Department of Agriculture (USDA) accredits licensed veterinarians to perform certain services as representatives of both state and federal offices. Once the licensed veterinarian obtains the accreditation, only the USDA has the authority to revoke or suspend accreditation privileges. Therefore, if violations or unethical practices occur in non-federal activities, the only recourse the state has is to fine the veterinarian. The department has no authority to have accreditation privileges suspended or revoked.

Existing language concerning calf vaccination does not conform to current state and federal wording in the National Brucellosis Uniform Methods and Rules. Also, there are currently no uniform standards for the humane care, treatment, or euthanasia of livestock animals.

***Division of Dairy***

In an emergency, the department may authorize the sale of pasteurized milk and milk products that have not been graded and are so labeled. It does not have the authority to allow the sale of reconstituted pasteurized milk products during an emergency. Also, current statute does not prohibit the transfer of licenses for frozen dessert plants.

***Division of Food Safety***

All food establishments in the same category are required to pay the same permit fee, regardless of the number of times they must be inspected. To ensure the safety of consumers, the goal of the department is to inspect each food establishment at least two to three times per year. For establishments that fail the initial inspection, the department re-inspects in two to three weeks to

verify compliance. Unfortunately, it sometimes takes two to four follow-up visits to achieve compliance. These establishments require a greater amount of program resources as compared to establishments which are in compliance, but pay the same permit fee.

Since 1995, the number of food establishments the Bureau of Food and Meat Inspection (bureau) inspects has doubled. Currently, the bureau inspects over 39,000 establishments each year. Since the \$350 fee was set in 1992, the environment of the industry has vastly changed. The popularity of large supermarkets with specialty departments, such as bakeries, delis, and sushi bars, coupled with the increase in convenience stores with food service has changed the workload and responsibilities of the inspectors in this program. In addition, the size of supermarkets has overshadowed the size of convenience stores making the fee requirement inequitable. Sanitation and Safety Inspectors currently spend about three full work days inspecting the average supermarket each year as compared with about six hours per year in convenience stores with food service. The permit fees should reflect this comparison.

#### ***Division of Forestry***

The department has the authority to loan new or used equipment, vehicles, or supplies to state, county and local governmental entities, which have fire/rescue responsibilities. However, the threat of liability causes serviceable items to be destroyed or scrapped, rather than provided to needy organizations.

#### ***Division of Marketing***

The department is required to coordinate the development of uniform specifications for use and procurement of compost by state agencies, establish a work group of state and local government personnel to design an appropriate mechanism and report annually to the Governor, Senate President, and Speaker of the House, about the sale and use of compost by state agencies. The department has developed uniform specifications for compost that have been used to qualify compost vendors for State Negotiated Agreement Price Schedule (SNAPS). However, since not all vendors apply for SNAPS agreements, reporting is not accurate.

In the 2000 Legislative Session, \$3 million was appropriated to fund an agricultural loan program. However, during implementation of the program, it was found that the current language is too restrictive to provide a meaningful program that would benefit all agribusinesses.

#### ***Division of Plant Industry***

The department currently has no recourse for persons who violate its rules imposed under Chapter 581, F.S., regulating the plant industry.

#### ***Division of Standards***

Two new types of vehicles that fall under the department's amusement ride inspection program have become more popular. Battery-operated miniature cars, which are operated and ridden by small children, can be purchased at retail or rented at an event where a small track or area is laid out for the children to ride the vehicles on. The other is a trackless vehicle, in which a riding mower, or golf cart, or some other mechanical means of power driven by an operator is used to pull several trailers or carts with passengers. Both of these types of vehicles are operated at a walking speed. The bureau has inspected several of these miniature vehicle layouts and has received some criticism for permitting and inspecting rides that are relatively safe and present

little opportunity for injury. In addition to being a low risk activity, these types of rides are very portable, are very difficult to track and locate, and are becoming very common.

***Office of Agricultural Water Policy***

The Department of Agriculture and Consumer Services and the Department of Environmental Protection jointly make decisions concerning the distribution of Best Management Practices funding. There is currently no rulemaking authority in place.

***Commercial Feed and Feedstuff***

Chapter 580, F.S., the Florida Commercial Feed Law, authorizes the department to inspect, sample, and analyze any commercial feed or feedstuff distributed in this state and to assess any penalties provided for violation of this chapter. The department needs the ability to enforce current and future federal requirements necessary to prevent the introduction of Bovine Spongiform Encephalopathy, or mad cow disease, and other contagious animal and/or human diseases that can be introduced through the feed supply.

**III. Effect of Proposed Changes:**

**Section 1.** Amends s. 120.80, F.S., to exclude LP Gas Marketing Orders from rulemaking requirements of Chapter 120.

**Section 2.** Amends s. 125.27, F.S., to provide protection from civil liability for the department and other private or public entities who lease, loan, or make available equipment, vehicles, or supplies to state, county, or local governmental entities having fire/rescue responsibilities.

**Section 3.** Amends s. 201.15, F.S., to authorize the Department of Agriculture and Consumer Services and the Department of Environmental Protection to adopt rules regarding the distribution of funds for implementation of best management practices.

**Section 4.** Amends s. 316.228, F.S., to clarify that commercial motor vehicles transporting unprocessed logs or pulpwood must attach a minimum of one amber strobe light on the rear of any load which extends more than four feet beyond the body or the bed of the vehicle.

**Section 5.** Amends s. 320.08, F.S., to clarify that farmers are allowed to move certain equipment and supplies from one location to another in a truck defined as a “goat.”

**Section 6.** Amends s. 403.714, F.S., to eliminate requirements of the department to report on the sales and use of compost by state agencies.

**Section 7.** Amends s. 487.041, F.S., to authorize the department to verify data supporting label claims of termite prevention or protection on pesticide products registered in the state. Authorizes the department to adopt rules which specify standards and acceptable test conditions for data submitted in support of an efficacy claim.

**Section 8.** Amends s. 500.09, F.S., to allow the department to establish fees to recover the costs of each re-inspection of food establishments when conducted for the purpose of verifying compliance with Chapter 500.

**Section 9.** Amends s. 500.12, F.S., to increase the fee cap the department may charge for a food permit from \$350 to \$1,000. Limits the use of such fee to the recovery of costs for the services provided.

**Section 10.** Amends s. 502.012, F.S., to revise references relating to the pasteurized milk ordinance. Authorizes the department to adopt said ordinance by rules.

**Section 11.** Amends s. 502.014, F.S., to allow the department to adopt, by rule, publications used for certification of employees as state milk sanitation officers. Deletes a requirement for persons receiving a federal temporary marketing permit for milk and milk products to forward a copy of said certificate to the department.

**Section 12.** Amends s. 502.053, F.S., to clarify publications referenced for milk testing.

**Section 13.** Amends s. 502.091, F.S., to authorize, in an emergency situation, the sale of reconstituted pasteurized milk products that are appropriately labeled, as determined by the department.

**Section 14.** Amends s. 503.041, F.S., to provide that any attempted or purported transfer of any frozen dessert license is grounds for suspension or revocation of the license.

**Section 15.** Repeals ss. 504.21, 504.22, 504.23, 504.24, 504.25, 504.26, 504.27, 504.28, 504.29, 504.31, 504.32, 504.33, 504.34, 504.35, 504.36, F.S., to repeal the Florida Organic Farming and Food Act.

**Section 16.** Repeals ss. 536.20, 536.21, and 536.22, F.S., to repeal obsolete and inactive provisions of law relating to stamps and brands for timber and lumber.

**Section 17.** Repeals s. 570.381, F.S., to repeal obsolete provisions relating to Appaloosa horse racing, breeders' awards, the Appaloosa Advisory Council, horse registration fees, and the Florida Appaloosa Racing Promotion Fund. According to the department, there has been no Appaloosa racing in the state for more than 10 years.

**Section 18.** Amends s. 550.2625, F.S., to remove a provision relating to the use of moneys generated by Appaloosa registration fees.

**Section 19.** Amends s. 550.2633, F.S., to remove a provision relating to the deposit of funds for Appaloosa races conducted under a quarter horse racing permit and the use of such funds for breeders' and stallion awards.

**Section 20.** Amends s. 570.07, F.S., to authorize the department to repair, renovate, or build structures from existing appropriations, not to exceed a cost of \$250,000 per structure. Authorizes the department to commence legal proceedings in circuit court when a violation relating to consumer protection has occurred.

**Section 21.** Amends s. 503.071, F.S., to provide that frozen dessert manufacturers are subject to the provisions of s. 500.172, F.S., relating to embargoing, detaining, or destroying food or food processing equipment, as well as the provisions of s. 503.071, F.S., relating to penalties, injunctions, and administrative fines.

**Section 22.** Amends s. 570.244, F.S., to clarify that the department shall facilitate economic growth through development of all agribusinesses, not only new agribusinesses.

**Section 23.** Amends s. 570.249, F.S., to expand the Agricultural Economic Development Program to include seafood and aquaculture, including but not limited to shellfish cultivation and harvesting, ornamental fish farming and commercial fishing, in the crops eligible for the emergency loan program. Clarifies that the loan application must be made to the department within 90 days, rather than 30 days, after a natural disaster or socioeconomic condition occurs. Modifies amounts and conditions of an applicant's net worth. Provides for loans to be secured. Directs the department to establish a grant program to provide aid to agribusinesses to assist in market development.

**Section 24.** Amends s. 570.38, F.S., to increase the membership of the Animal Industry Technical Council to include representation of other emerging animal industries, such as alligators and ostriches.

**Section 25.** Amends s. 580.031, F.S., to revise the definition of "commercial feed" and "feedstuff" to authorize the department to regulate all feed ingredients and feed products distributed in Florida.

**Section 26.** Amends s. 580.051, F.S., to revise label requirements for feed. Requires fee distributed by an integrated poultry operation or by a cooperative to its members to be accompanied by a legible label bearing information required by the Federal Food and Drug Administration.

**Section 27.** Amends s. 580.065, F.S., to remove limitations on the amount of feed testing the department may require feed manufacturers to perform through the rule adoption process to address emerging animal and human health hazards from biological and chemical contaminants and prohibited drugs and pesticides.

**Section 28.** Amends s. 580.091, F.S., to remove requirements dealing with annual inspections of certified feed laboratories by the department.

**Section 29.** Amends s. 580.112, F.S., to prohibit the distribution of a feed or feedstuff that is prohibited by federal law or regulation.

**Section 30.** Amends s. 581.211, F.S., to authorize the department to levy penalties for violations of rules concerning the plant industry.

**Section 31.** Amends s. 585.002, F.S., to prohibit another state agency, or a local government to adopt any ordinance, rule or policy with respect to the humane care and treatment of livestock

and poultry when such activity is regulated through best-management practices developed or adopted by the department under Chapter 120 as part of a statewide or regional program.

**Section 32.** Amends s. 585.145, F.S., to require official certificates of veterinary inspection to be completed only by a veterinarian accredited under the National Veterinary Accreditation Program. Authorizes the department to deny a veterinarian the authority to issue health certificates for specified just causes.

**Section 33.** Amends s. 585.155, F.S., to revise vaccination requirements for calves. Deletes a provision requiring heifer calves to be vaccinated when not less than four months and not more than ten months of age. Conforms existing language with current state and federal wording in the National Brucellosis Uniform Methods and Rules.

**Section 34.** Amends s. 589.19, F.S., to authorize the first state forest acquired by the Board of Trustees of the Internal Improvement Trust Fund in Baker County to be named the John M. Bethea State Forest.

**Section 35.** Amends s. 616.242, F.S., to provide additional exemptions from state safety standards for amusement rides. Exempts battery-powered cars or vehicles designed to be operated by children seven years of age or under and that do not exceed a speed of four miles per hour. Exempts mechanically driven vehicles that pull train cars, carts, wagons, or similar vehicles, that are not confined to a metal track or to an area but are steered by an operator and do not exceed a speed of four miles per hour.

**Section 36.** Amends s. 828.22, F.S., to create the Humane Slaughter Act. Revises provisions relating to humane slaughter and livestock euthanasia.

**Section 37.** Amends s. 828.23, F.S., to define “slaughter” to mean the act of killing one or more livestock animals for any purpose. Revises the definitions for “slaughterer,” “livestock,” and “humane method”. Deletes the definitions for “packer” and “stockyard”.

**Section 38.** Amends s. 828.24, F.S., to prohibit a person to kill an animal in any way except by an approved humane method. Requires an animal to be rendered insensitive to pain prior to being shackled or hoisted with intent to kill. Provides that nothing in this section precludes the enforcement of s. 828.12, F.S., relating to cruelty to animals.

**Section 39.** Amends s. 828.25, F.S., to revise provisions relating to administration of the Humane Slaughter Act by the department. Authorizes the department to conduct inspections of premises of slaughterers at random intervals.

**Section 40.** Creates s. 828.251, F.S., to require the department, in conjunction with the State University System, the American Veterinary Medical Association, and humane animal groups, to make current technical information available to slaughterers.

**Section 41.** Creates s. 828.252, F.S., to provide for humane care of non-ambulatory animals. Defines “nonambulatory animal” to mean any livestock that is unable to stand and walk unassisted.

**Section 42.** Amends s. 828.26, F.S., to provide an administrative fine of up to \$10,000 for violations of provisions or rules of the Humane Slaughter Act. Provides that violations result in a misdemeanor of the second degree, punishable by a term of imprisonment not exceeding 60 days or a fine of \$500. Provides that nothing in this section precludes the enforcement of s. 828.12, F.S., relating to cruelty to animals.

**Section 43.** Amends s. 427.804, F.S., to provide a cross-reference to s. 570.07, F.S.

**Section 44.** Amends s. 559.921, F.S., to provide a cross-reference to s. 570.07, F.S.

**Section 45.** Amends s. 570.544, F.S., to repeal subsections (10) and (11), concerning the powers and duties of the Division of Consumer Services.

**Section 46.** Provides that this act shall take effect July 1, 2002, unless otherwise provided.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

**Food Inspection Program:** In order to maintain a reasonable relationship between fee amounts and costs for services provided, some food establishments will be required to pay an increased amount for an annual food permit fee. This amount will be set by rule and the largest, most complex establishments would have the greatest increases. The maximum amount of increase at the present time is anticipated to be \$300, but future increases are possible if costs of services increase. Some establishments could even pay a reduced amount in the future, based upon the costs for services.

Food establishments that require re-inspection to verify compliance with laws or rules will be charged for the cost of that re-inspection.

C. Government Sector Impact:

	<b>Fund</b>	<b>FY 2001-02</b>	<b>FY 2002-03</b>	<b>FY 2003-04</b>
<b>REVENUES:</b>				
<b>Recurring Revenues:</b>				
Fair Ride Inspections	GITF	(4,200)	(4,620)	(5,082)
Food Inspection Program	GITF	800,400	840,420	882,441
<b>Total Recurring Revenues:</b>		<b>\$796,200</b>	<b>\$835,800</b>	<b>\$877,359</b>
<b>OPERATING COSTS:</b>				
<b>Non-Recurring:</b>				
		0	0	0
<b>Recurring:</b>				
Animal Industry Technical Council per diem & travel	GR	2,250	2,250	2,250
AITC printing & mailing costs (Notification of changes)	GR	3,000	3,000	3,000
AITC rule development & information distribution	GR	5,000	5,000	5,000
<b>Total Operating Costs:</b>		<b>\$10,250</b>	<b>\$10,250</b>	<b>\$10,250</b>
<b>Non-Operating Costs:</b>				
General Revenue service charge @ 7.3% of revenue	GITF	58,123	61,013	64,047
<b>Total Non-Operating Costs:</b>		<b>\$58,123</b>	<b>\$61,013</b>	<b>\$64,047</b>
<b>TOTAL OF ALL COSTS:</b>		<b>\$ 68,373</b>	<b>\$ 71,263</b>	<b>\$ 74,297</b>
<b>TOTAL OF ALL REVENUES:</b>		<b>\$796,200</b>	<b>\$835,800</b>	<b>\$877,359</b>

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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