

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCS for CS/HB 1231 Agricultural Practices

**SPONSOR(S):** Ways & Means Committee

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Ways & Means Committee		Dugan	Langston

### SUMMARY ANALYSIS

The proposed committee substitute amends laws relating to registration fees and license taxes in the agricultural industry.

The bill revises eligibility requirements for restricted license plates for certain not-for-hire trucks used only for transporting raw, unprocessed, and non-manufactured agricultural and horticultural products within 150 miles of the truck owner's home address. The bill removes the 150 mile restriction.

The bill also eliminates supplemental fees required each year for certain brands of pesticide delivered, sold, or transported in the state.

The Revenue Estimating Conference estimated the following fiscal impacts from the provisions of the proposed committee substitute:

- The provisions related to the agricultural restricted license plate have a negative insignificant fiscal impact on state trust funds; and
- The provisions related to the pesticide fee have a negative recurring impact of \$1.7 million on the General Inspection Trust Fund and a negative recurring impact of \$0.2 million on the General Revenue Fund.

The proposed committee substitute has an effective date of July 1, 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Agricultural Restricted License Plate**

###### Current Situation

Florida law imposes annual license taxes and one-time registration fees for the operation of motor vehicles, mopeds, motorized bicycles, tri-vehicles, trailers, and mobile homes.<sup>1</sup> The amount of the fee depends of the type and size of the vehicle. For example, a truck tractor or heavy truck with a gross vehicle weight less than 44,000 pounds is required to pay a license tax up to \$405 on an annual basis.<sup>2</sup> A truck tractor or heavy truck with a gross vehicle weight of 44,000 pounds or more will pay, at a minimum, \$773 in license taxes each year.<sup>3</sup>

In addition, current law provides a restricted license plate for an eligible truck tractor or heavy truck, not operated as a for-hire vehicle, which is engaged exclusively in transporting raw, unprocessed, and non-manufactured agricultural or horticultural products, within a 150 mile radius of its home address.<sup>4</sup> The annual license tax for a vehicle that acquires this restricted license plate is a reduced amount compared to a vehicle with a comparable weight that does not engage in such transportation activities. The law sets forth the following fees for the restricted license plate:

- \$87.75 flat, if the vehicle's declared gross vehicle weight is less than 44,000 pounds.
- \$324 flat, if the vehicle's declared gross vehicle weight is 44,000 pounds or more and such vehicle only transports from the point of production to:
  - The point of primary manufacture;
  - The point of assembling the same; or
  - A shipping point by rail, water or motor transportation company.<sup>5</sup>

In this context "not-for-hire" means that the owner of the motor vehicle must also be the owner of the raw unprocessed, and non-manufactured agricultural or horticultural product, or the user of farm implements and fertilizer being delivered.<sup>6</sup>

###### Proposed Changes

The proposed committee substitute revises the eligibility requirement for the agricultural restricted license plate by removing the 150 mile radius of its home address restriction, and instead allows truck tractors or heavy tracks that operate within the state of Florida to be eligible for the restricted license plate.

##### **Pesticide Registration**

###### Current Situation

Effective January 1, 2009, each brand of pesticide<sup>7</sup> distributed, sold, or offered for sale, except as otherwise provided, within the state or delivered for transportation or transported in intrastate

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<sup>1</sup> s. 320.08, F.S.

<sup>2</sup> s. 320.08(4)(h), F.S.

<sup>3</sup> s. 320.08(4)(i), F.S.

<sup>4</sup> s. 320.08(4)(n), F.S.

<sup>5</sup> s. 320.08(4)(n), F.S.

<sup>6</sup> s. 320.08(4)(n), F.S.

commerce or between points within this state through any point outside this state, must be registered with the Department of Agriculture and Consumer Services (department) and is subject to a biennial registration fee.<sup>8</sup> The department assesses each pesticide registration beginning in an odd-numbered year a fee of \$700 per brand of pesticide, and a fee of \$200 for each special local need label and experimental use permit.<sup>9</sup> The registration expires on December 31 of the following year.<sup>10</sup> The department assesses each pesticide registration beginning in an even-numbered year a fee of \$350 per brand of pesticide, and fee of \$100 for each special local need label and experimental use permit.<sup>11</sup> That registration expires on December 31 of that year.<sup>12</sup>

In 2009, the Legislature defrayed the expense of the Chemical Residue Laboratory by creating a supplemental biennial registration fee (supplemental fee) for each registered brand of pesticide that contains an active ingredient for which the United States Environmental Protection Agency (EPA) has established a food tolerance limit in 40 C.F.R. part 180.<sup>13</sup> The law requires the department to biennially publish by rule a list of the pesticide active ingredients for which a brand of pesticide is subject to the supplemental fee.<sup>14</sup> The department assesses each registration beginning in an odd-numbered year a supplemental registration fee of \$630 per brand of pesticide that is subject to the supplemental fee,<sup>15</sup> and assesses each registration beginning a supplemental registration fee of \$315 in an even-numbered year per brand of pesticide that is subject to the supplemental fee.<sup>16</sup>

The revenue from these two fees, less those costs determined by the department to be nonrecurring or one-time costs, must be deferred over the two year registration period, deposited in the General Inspection Trust Fund, and used by the department to carry out the provisions of the Florida Pesticide Law.<sup>17</sup> Revenues collected from the supplemental fee may also be used by the department to test pesticides for food safety.<sup>18</sup>

The Bureau of Chemical Residue Laboratories within the Division of Food Safety is responsible for the chemical analysis of poisonous or deleterious chemical residues remaining in or on human food produced or marketed in Florida.<sup>19</sup> For food safety purposes, the Chemical Residue Laboratory uses the laboratory for the regulatory enforcement of federal pesticide and antibiotic residue tolerances and guidelines adopted by the state for raw agricultural produce.<sup>20</sup> The department operates the Chemical

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<sup>7</sup> Section 487.021(49), F.S., defines the term “pesticide” as any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses, bacteria, or fungi on or in living humans or other animals, which the department by rule declares to be a pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. The term does not include any article that is a “new animal drug” within the meaning of s. 201(w) of the Federal Food, Drug, and Cosmetic Act, has been determined by the Secretary of the US Department of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article; or is an animal feed within the meaning of s. 201(x) of the Federal Food, Drug, and Cosmetic Act.

<sup>8</sup> s. 487.041(1), F.S.

<sup>9</sup> s. 487.041(1)(c), F.S.

<sup>10</sup> s. 487.041(1)(c), F.S.

<sup>11</sup> s. 487.041(1)(c), F.S.

<sup>12</sup> s. 487.041(1)(c), F.S.

<sup>13</sup> s. 32, ch. 2009-66, Laws of Fla.

<sup>14</sup> s. 487.041(1)(d)1., F.S.

<sup>15</sup> s. 487.041(1)(d)2., F.S.

<sup>16</sup> s. 487.041(1)(d)2., F.S.

<sup>17</sup> s. 487.041(1)(e), F.S.

<sup>18</sup> s. 487.041(1)(e), F.S.

<sup>19</sup> DACS, *Bureau of Chemical Residue Laboratory*, <http://www.freshfromflorida.com/Divisions-Offices/Food-Safety/Bureaus-and-Sections/Bureau-of-Chemical-Residue-Laboratory> (last visited February 21, 2017).

<sup>20</sup> DACS, *Bureau of Chemical Residue Laboratory*, <http://www.freshfromflorida.com/Divisions-Offices/Food-Safety/Bureaus-and-Sections/Bureau-of-Chemical-Residue-Laboratory> (last visited February 21, 2017).

Residue Laboratory in Tallahassee.<sup>21</sup> This is the only state laboratory in Florida dedicated to chemical residue analysis in foods.<sup>22</sup>

### Proposed Changes

The bill eliminates the supplemental fee for each registered brand of pesticide that contains an active ingredient for which the EPA has established a food tolerance limit in 40 C.F.R. part 180 by repealing paragraph 487.041(1)(d), F.S., and removing references to the supplemental fee throughout the section.

### Effective Date

The proposed committee substitute has an effective date of July 1, 2017.

## B. SECTION DIRECTORY:

**Section 1** Amends s. 320.08, F.S., related to license taxes.

**Section 2** Amends s. 487.041, F.S., related to pesticide registration.

**Section 3** Provides an effective date of July 1, 2017.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The Revenue Estimating Conference estimated the following fiscal impacts from the provisions of the proposed committee substitute:

- The provisions related to the agricultural restricted license plate have an insignificant fiscal impact; and
- The provisions related to the pesticide fee have a negative recurring impact of \$1.7 million on the General Inspection Trust Fund and a negative recurring impact of \$0.2 million on the General Revenue Fund.

#### 2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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<sup>21</sup> DACS, Bureau of Chemical Residue Laboratory, <http://www.freshfromflorida.com/Divisions-Offices/Food-Safety/Bureaus-and-Sections/Bureau-of-Chemical-Residue-Laboratory> (last visited February 21, 2017).

<sup>22</sup> DACS, Agency Analysis of 2016 House Bill 4035, p. 1 (February 21, 2017).

Expanding the distance that the agricultural restricted license plates are authorized to travel may reduce the costs associated with shipping agricultural products outside of the 150 mile radius.

According to the Department Agriculture and Consumer Services, removal of the supplemental pesticide fee will produce an average recurring savings of \$1,919,337.84 affecting 1,478 pesticide registrants in the private sector.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES