

CHAPTER 487
PESTICIDE REGULATION AND SAFETY
PART II
FLORIDA AGRICULTURAL WORKER SAFETY ACT

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487.2011 Popular name; administration.--This part may be known by the popular name the "Florida Agricultural Worker Safety Act" and shall be administered by the Department of Agriculture and Consumer Services.

History.--s. 47, ch. 2004-64.

487.2021 Legislative intent.--It is the intent of the Legislature to ensure that agricultural workers employed in the state receive protection from agricultural pesticides. The Legislature intends to ensure that agricultural workers be given information concerning agricultural pesticides.

History.--s. 48, ch. 2004-64.

487.2031 Definitions.--For the purposes of this part, the term:

- (1) "Agricultural employer" means any person who hires or contracts for the services of workers to perform activities related to the production of agricultural plants or any person who is an owner of, or responsible for, the management or condition of an agricultural establishment that uses such workers.
- (2) "Agricultural establishment" means any farm, forest, nursery, or greenhouse.
- (3) "Agricultural plant" means any plant grown or maintained for commercial or research purposes and includes, but is not limited to, food, feed, fiber plants, trees, turfgrass, flowers, shrubs, ornamentals, and seedlings.
- (4) "Department" means the Department of Agriculture and Consumer Services.
- (5) "Designated representative" means any organization or person to whom a worker gives written authorization to exercise the right to request the agricultural pesticide information pursuant to this part.
- (6) "Fact sheet" means an agricultural pesticide fact sheet approved by the state or Federal Government that provides information about the impacts of the use of an agricultural pesticide.
- (7) "Material safety data sheet" means written or printed material concerning an agricultural pesticide that sets forth the following information:
 - (a) The chemical name and the common name of the agricultural pesticide.
 - (b) The hazards or other risks in the use of the agricultural pesticide, including:
 - 1. The potential for fire, explosions, corrosivity, and reactivity.

2. The known acute health effects and chronic health effects of exposure to the agricultural pesticide, including those medical conditions that are generally recognized as being aggravated by exposure to the agricultural pesticide.

3. The primary routes of entry and symptoms of overexposure.

(c) The proper handling practices, necessary personal protective equipment, and other proper or necessary safety precautions in circumstances that involve the use of or exposure to the agricultural pesticide, including appropriate emergency treatment in case of overexposure.

(d) The emergency procedures for spills, fire, disposal, and first aid.

(e) A description of the known specific potential health risks posed by the agricultural pesticide, which is written in lay terms and is intended to alert any person who reads the information.

(f) The year and month, if available, that the information was compiled and the name, address, and emergency telephone number of the manufacturer responsible for preparing the information.

(8) "Retaliatory action" means an action, such as dismissal, demotion, harassment, blacklisting with other employers, reducing pay or work hours, or taking away company housing, that is taken by any agricultural employer against a worker who exercises any right under the provisions of the United States Environmental Protection Agency Worker Protection Standard, 40 C.F.R. s. 1707(b), or this part.

(9) "Trainer" means any person who is qualified to train workers under the pesticide safety training requirements of the United States Environmental Protection Agency Worker Protection Standard, 40 C.F.R. s. 170.130.

(10) "Worker" means any person, including a farmworker or a self-employed person, who receives any type of compensation for employment that involves tasks relating to the production of agricultural plants on an agricultural establishment. The term "worker" does not include any person employed by a commercial pesticide-handling establishment to perform tasks as a crop advisor.

History.--s. 49, ch. 2004-64.

487.2041 Enforcement of federal worker protection regulations.--The department shall, to the extent that resources are available, continue to operate under the United States Environmental Protection Agency regulations regarding the Labeling Requirement for Pesticides and Devices, 40 C.F.R. part 156, and the Worker Protection Standard, 40 C.F.R. part 170, which the department adopted by rule during the 1995-1996 fiscal year and published in the Florida Administrative Code. Any provision of this part not preempted by federal law shall continue to apply.

History.--s. 50, ch. 2004-64.

487.2051 Availability of agricultural pesticide information to workers and medical personnel.--

(1) An agricultural employer shall make available agricultural pesticide information concerning any agricultural pesticide to any worker:

(a) Who enters an agricultural-pesticide-treated area on an agricultural establishment where:

1. An agricultural pesticide has been applied within 30 days of that entry; or

2. A restricted-entry interval has been in effect; or

(b) Who may be exposed to the agricultural pesticide during normal conditions of use or in a foreseeable emergency.

(2) The agricultural pesticide information provided pursuant to subsection (1) must be in the form of a fact sheet or a material safety data sheet. The agricultural employer shall provide a written copy of the information provided pursuant to subsection (1) within 2 working days after a request for the information by a worker or a designated representative. In the case of a pesticide-related medical emergency, the agricultural employer shall provide a written copy of the information promptly upon the request of the worker, the designated representative, or medical personnel treating the worker.

(3) Upon the initial purchase of a product and with the first purchase after the material safety data sheet is updated, the distributor, manufacturer, or importer of agricultural pesticides shall obtain or develop and provide each direct purchaser of an agricultural pesticide with a material safety data sheet. If the material safety data sheet or fact sheet for the agricultural pesticide is not available when the agricultural pesticide is purchased, the agricultural employer shall take appropriate and timely steps to obtain the material safety data sheet or fact sheet from the distributor, the manufacturer, the department, a federal agency, or another distribution source.

(4) The department shall produce and make available to a trainer a one-page general agricultural pesticide safety sheet. The safety sheet must be in a language understandable to the worker and must include, but need not be limited to, illustrated instructions on preventing agricultural pesticide exposure and toll-free telephone numbers to the Florida Poison Control Centers. The trainer shall provide the safety sheet to the worker pursuant to the United States Environmental Protection Agency Worker Protection Standard, 40 C.F.R. s. 170.130.

History.--s. 51, ch. 2004-64.

487.2061 Prohibited acts.--Any person covered by this part may not:

- (1) Fail to provide agricultural pesticide information as required in this part; or
- (2) Take retaliatory action.

History.--s. 52, ch. 2004-64.

487.2071 Penalties against violators; worker relief; monitoring complaints of retaliation.--

(1) Penalties set forth in this part shall be applied to any person who violates this part. A person who violates this part is subject to federal penalties as provided in the United States Environmental Protection Agency Worker Protection Standard, 40 C.F.R. s.170.9(b).

(2) A worker who has been subject to retaliatory action and seeks relief under this section may file a complaint with the department.

(3) In any action brought pursuant to this section that involves retaliatory action, if the retaliatory action is predicated on the disclosure by a worker of an illegal action, policy, or practice of any person covered by this part to an appropriate governmental agency, the worker may not be required to show that the disclosure was under oath or in writing or that the worker notified the employer in writing of the illegal action, policy, or practice.

(4) The department shall monitor all complaints of retaliation that it receives and report its findings to the President of the Senate and the Speaker of the House of Representatives on or before October 1, 2008. The report shall include the number of such complaints received, the circumstances surrounding the complaints, and the actions taken concerning the complaints.

History.--s. 53, ch. 2004-64.