



# 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.

Additionally, the implementation of the Farm to Fuel Program allows agricultural producers to convert products deemed as waste into a profitable commodity.

**Provide limited government:** The bill authorizes the Department of Agriculture and Consumer Services and the Department of Revenue to promulgate rules relating to the implementation of the Farm to Fuel Program and the associated tax credit.

**Ensure lower taxes:** The bill provides for a tax credit for taxpayers who produce either ethanol or biodiesel at a facility located in the state using Florida-grown commodities.

### B. EFFECT OF PROPOSED CHANGES:

#### **Pest Control**

Currently, each employee who performs pest control for a pest control licensee in Florida is required<sup>1</sup> 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.<sup>2</sup>

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<sup>3</sup> regarding the application of pesticides used in the preventive treatment for subterranean termites for new construction. This provision was established

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<sup>1</sup> s. 482.091(1)(a), F.S.

<sup>2</sup> "Independent contractor" is defined in s. 482.021(12), F.S.

<sup>3</sup> s. 482.051(5), F.S.