

**STORAGE NAME:** h3693s1.ag

**DATE:** March 17, 1998

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
AGRICULTURE  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

**BILL #:** CS/HB 3693

**RELATING TO:** Agricultural Sales

**SPONSOR(S):** Committee on Agriculture, Representative Heyman and others

**COMPANION BILL(S):** CS/SB 1294 (s) by the Committee on Agriculture and Senator Gutman

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) AGRICULTURE YEAS 8 NAYS 0
  - (2) CRIME & PUNISHMENT
  - (3)
  - (4)
  - (5)
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I. SUMMARY:

The bill changes the title of the "Florida Avocado, Mango, Lime, and Tomato Sales Law" to the "Florida Tropical or Subtropical Fruit and Vegetables Sales Law." It revises statutes to reflect this expansion and provides definitions of "tropical or subtropical fruit" and "vegetables."

The bill directs that commercial packers or shippers of tropical or subtropical fruit or vegetables accept such fruit or vegetables only if they are delivered in standard industry field containers and provides that violators shall have such produce confiscated. The bill establishes a penalty for this violation and increases penalties for violations of documentation requirements.

This bill has no significant fiscal impact on the state.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Florida's tropical or subtropical fruit and vegetable growers are experiencing high numbers of agricultural thefts from their groves and fields. The Dade County Public Safety Department reports that during the peak growing season, it is not abnormal for 4,000-5,000 lbs. to be stolen in a night. These products are being illegally sold to packing houses. At present, s. 570.55., F.S., only addresses illegal activity with regard to avocados, mangos, limes, and tomatoes.

Dade County law enforcement has noted that a majority of the stolen fruits and vegetables are transported in such containers as burlap bags and garbage cans. Legitimate growers utilize standard industry field containers when transporting their commodities.

Section 570.55, F.S., requires that for any transaction involving the handling or sale of 55 lbs. or more of avocados, mangos, limes, and tomatoes in the primary channel of trade, the buyer or receiver shall demand a bill of sale, invoice, sales memorandum, or other document listing the date of the transaction, the quantity of the items, and the identification of the seller or handler. Items that are sold without this documentation are confiscated and the buyer or receiver, as well as the seller or handler, is in violation of a second degree misdemeanor.

Section 603.161, F.S., requires that every purchaser of more than one bushel or crate of tropical or semitropical fruit shall obtain from the grower a sales certificate detailing the name, address and telephone number of the grower from whom the fruit was purchased, as well as the species, variety and amount purchased. Each purchaser and subsequent purchaser must include his or her name, address, telephone number, date of purchase and driver's license number on the sales certificate. The certificate must accompany the fruit from the point of growth to the final processor or wholesaler, who must keep the certificate for a year from the date of purchase. Violation of this section constitutes a second degree misdemeanor.

B. EFFECT OF PROPOSED CHANGES:

The bill expands the title of the law from the "Florida Avocado, Mango, Lime, and Tomato Sales Law" to the "Florida Tropical or Subtropical Fruit and Vegetables Law." It defines "tropical or subtropical fruit," as avocados, bananas, calamondins, carambolas, guavas, kumquats, limes, longans, loquats, lychees, mameys, mangoes, papayas, passionfruit, sapodillas, and fruit that must be grown in tropical or semitropical regions. Citrus fruit, as defined by s. 601.03(7), F.S., is excluded from the definition of "tropical and subtropical fruit." Vegetables are defined as tomatoes, peppers, squash, cucumbers, leafy greens, green beans, eggplant, sweet corn, and cabbage. The Department of Agriculture and Consumer Services is authorized to include additional vegetables by rule.

The bill requires that packers and shippers can only accept tropical and subtropical fruit and vegetables if they are in standard industry field containers. Violation of this law will be a first degree misdemeanor and the items will be confiscated. Growers transporting their own produce will not be in violation.

The bill increases the penalty for violation of section 570.55(4), regarding proper documentation of handlers, from a second to a first degree misdemeanor and mandates that fruit or vegetables sold without this documentation shall be confiscated.

The bill revises the definition of tropical and subtropical fruit and vegetables in section 603.161(1), F.S., and increases the penalty for violation of this section (discussed under "Present Situation") from a second to a first degree misdemeanor.

**C. APPLICATION OF PRINCIPLES:**

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No. Inspection stations and law enforcement personnel already inspect documentation and the transportation of agricultural items. This bill will give them more authority to retain persons they suspect have stolen or have illegally obtained tropical or subtropical fruits and vegetables.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced: **Not applicable.**

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

(2) what is the cost of such responsibility at the new level/agency?

(3) how is the new agency accountable to the people governed?

2. Lower Taxes: **Not applicable.**

- a. Does the bill increase anyone's taxes?
  - b. Does the bill require or authorize an increase in any fees?
  - c. Does the bill reduce total taxes, both rates and revenues?
  - d. Does the bill reduce total fees, both rates and revenues?
  - e. Does the bill authorize any fee or tax increase by any local government?
3. Personal Responsibility: **Not applicable.**
- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?
  - b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?
4. Individual Freedom: **Not applicable.**
- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?
  - b. Does the bill prohibit, or create new government interference with, any presently lawful activity?
5. Family Empowerment: **Not applicable.**
- a. If the bill purports to provide services to families or children:
    - (1) Who evaluates the family's needs?
    - (2) Who makes the decisions?

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(3) Are private alternatives permitted?

(4) Are families required to participate in a program?

(5) Are families penalized for not participating in a program?

b. Does the bill directly affect the legal rights and obligations between family members?

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

(2) service providers?

(3) government employees/agencies?

D. STATUTE(S) AFFECTED:

Sections 570.55 and 603.161, Florida Statutes.

E. SECTION-BY-SECTION RESEARCH:

Section 1. Amending s. 570.55, F.S.; changing the "Florida Avocado, Mango, Lime, and Tomato Sales Law" to the "Florida Tropical or Subtropical Fruit and Vegetables Sales Law"; revising provisions to apply to tropical or subtropical fruit and vegetables; providing definitions of "tropical or subtropical fruit" and "vegetables" and authorizing the department to include additional vegetables by rule; prescribing use of standard industry field containers in packing and shipping; providing exemptions; providing penalties.

Section 2. Amending s. 603.161, F.S.; expanding definition of "tropical or subtropical fruit;" increasing a penalty.

Section 3. Providing that the act shall take effect October 1 of the year in which enacted.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None anticipated.

2. Recurring Effects:

None anticipated.

3. Long Run Effects Other Than Normal Growth:

None anticipated.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None anticipated. According to the Department of Agriculture and Consumer Services and representatives of the industry, growers already possess standard industry field containers and routinely utilize them when transporting their produce.

2. Direct Private Sector Benefits:

By requiring that all persons involved in commercial packing and shipping tropical or subtropical fruit and vegetables use standard industry field containers, and by increasing related penalties from second to first degree misdemeanors, it is anticipated the number of agricultural thefts and illegal resale of agricultural products will be reduced.

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3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce any state tax shared with counties or municipalities.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 17, 1998, the Agriculture Committee adopted a committee substitute for HB 3693. The substitute language differed from the original bill by

- \* excluding citrus, as defined in section 601.03(7), F.S., from the definition of tropical or subtropical fruit,
- \* changing "corn" to "sweet corn" in the definition of vegetables,
- \* allowing the Department of Agriculture and Consumer Services to include, by rule, additional vegetables in the definition of vegetables, and
- \* replacing "semitropical fruit" with "subtropical fruit" in Section 2 of the bill, which makes the term "subtropical fruit" consistent throughout the bill.

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VII. SIGNATURES:

COMMITTEE ON AGRICULTURE:

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