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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: FAV	.	
4/9/2008	.	
	.	
	.	

1 The Committee on Agriculture (Peaden) recommended the following
 2 **amendment:**

3
 4 **Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause
 6 and insert:

7
 8 Section 1. Subsection (4) of section 163.3162, Florida
 9 Statutes, is amended to read:

10 163.3162 Agricultural Lands and Practices Act.--

11 (4) DUPLICATION OF REGULATION.--Except as otherwise
 12 provided in this section and s. 487.051(2), and notwithstanding
 13 any other law, including any provision of chapter 125 or this
 14 chapter, a county may not exercise any of its powers to adopt or
 15 enforce any ordinance, resolution, regulation, rule, or policy to
 16 prohibit, restrict, regulate, or otherwise limit an activity of a
 17 bona fide farm operation on land classified as agricultural land



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18 pursuant to s. 193.461, if such activity is regulated through
19 implemented best management practices, interim measures, or
20 regulations developed by the Department of Environmental
21 Protection, the Department of Agriculture and Consumer Services,
22 or a water management district and adopted under chapter 120 as
23 part of a statewide or regional program; or if such activity is
24 expressly regulated by the United States Department of
25 Agriculture, the United States Army Corps of Engineers, or the
26 United States Environmental Protection Agency. A county may not
27 impose an assessment or fee for stormwater management on land
28 classified as agricultural land pursuant to s. 193.461 if the
29 agricultural operation has an agricultural discharge permit or
30 implements best-management practices developed by the Department
31 of Environmental Protection, the Department of Agriculture and
32 Consumer Services, or a water management district and adopted
33 under chapter 120 as part of a statewide or regional program.

34 (a) When an activity of a farm operation takes place within
35 a wellfield protection area as defined in any wellfield
36 protection ordinance adopted by a county, and the implemented
37 best management practice, regulation, or interim measure does not
38 specifically address wellfield protection, a county may regulate
39 that activity pursuant to such ordinance. This subsection does
40 not limit the powers and duties provided for in s. 373.4592 or
41 limit the powers and duties of any county to address an emergency
42 as provided for in chapter 252.

43 (b) This subsection may not be construed to permit an
44 existing farm operation to change to a more excessive farm
45 operation with regard to traffic, noise, odor, dust, or fumes
46 where the existing farm operation is adjacent to an established
47 homestead or business on March 15, 1982.

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48 (c) This subsection does not limit the powers of a
49 predominantly urbanized county with a population greater than
50 1,500,000 and more than 25 municipalities, not operating under a
51 home rule charter adopted pursuant to ss. 10, 11, and 24, Art.
52 VIII of the Constitution of 1885, as preserved by s. 6(e), Art.
53 VIII of the Constitution of 1968, which has a delegated pollution
54 control program under s. 403.182 and includes drainage basins
55 that are part of the Everglades Stormwater Program, to enact
56 ordinances, regulations, or other measures to comply with the
57 provisions of s. 373.4592, or which are necessary to carrying out
58 a county's duties pursuant to the terms and conditions of any
59 environmental program delegated to the county by agreement with a
60 state agency.

61 (d) For purposes of this subsection, a county ordinance
62 that regulates the transportation or land application of domestic
63 wastewater residuals or other forms of sewage sludge shall not be
64 deemed to be duplication of regulation.

65 Section 2. Subsection (1) of section 205.064, Florida
66 Statutes, is amended to read:

67 205.064 Farm, aquacultural, grove, horticultural,
68 floricultural, tropical piscicultural, and tropical fish farm
69 products; certain exemptions.--

70 (1) A local business tax receipt is not required of any
71 ~~natural~~ person for the privilege of engaging in the selling of
72 farm, aquacultural, grove, horticultural, floricultural, tropical
73 piscicultural, or tropical fish farm products, or products
74 manufactured therefrom, except intoxicating liquors, wine, or
75 beer, when such products were grown or produced by such ~~natural~~
76 person in the state.

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77 Section 3. Section 500.70, Florida Statutes, is created to
78 read:

79 500.70 Food safety compliance relating to tomatoes.--A
80 tomato farmer, packer, repacker, or handler that implements
81 applicable good agricultural practices and best-management
82 practices according to rules adopted by the department is
83 considered to have acted in good faith, with reasonable care, and
84 in compliance with state food safety microbial standards or
85 guidelines unless a violation of or noncompliance with such
86 measures can be shown through inspections.

87 Section 4. Subsection (10) of section 570.07, Florida
88 Statutes, is amended to read:

89 570.07 Department of Agriculture and Consumer Services;
90 functions, powers, and duties.--The department shall have and
91 exercise the following functions, powers, and duties:

92 (10) To act as adviser to producers and distributors, when
93 requested, and to assist them in the economical and efficient
94 distribution of their agricultural products and to encourage
95 cooperative effort among producers to gain economical and
96 efficient production of agricultural products. The department may
97 adopt by rule, pursuant to s. 120.536(1) and s. 120.54,
98 comprehensive best-management practices for agricultural
99 production and food safety.

100 Section 5. Subsection (5) is added to section 581.091,
101 Florida Statutes, to read:

102 581.091 Noxious weeds and infected plants or regulated
103 articles; sale or distribution; receipt; information to
104 department; withholding information.--

105 (5) (a) Notwithstanding any other provision of state law or
106 rule, a person may obtain a special permit from the department to

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107 plant Casuarina cunninghamiana as a windbreak for a commercial
108 citrus grove if the plants are produced in an authorized
109 registered nursery and certified by the department as being
110 vegetatively propagated from male plants. A "commercial citrus
111 grove" means a contiguous planting of 100 or more citrus trees
112 where citrus fruit is produced for sale.

113 (b) For a 5-year period, special permits authorizing a
114 person to plant Casuarina cunninghamiana shall be issued only as
115 part of a pilot program for fresh fruit groves in areas of Indian
116 River, St. Lucie, and Martin Counties where citrus canker is
117 determined by the department to be widespread. The pilot program
118 shall be reevaluated annually, and a comprehensive review shall
119 be conducted in 2013. The purpose of the annual and 5-year review
120 is to determine if the use of Casuarina cunninghamiana as an
121 agricultural pest and disease windbreak poses any adverse
122 environmental consequences. At the end of the 5-year pilot
123 program, if the Noxious Weed and Invasive Plant Review Committee,
124 created by the department, and the Department of Environmental
125 Protection, in consultation with a representative of the citrus
126 industry who has a Casuarina cunninghamiana windbreak, determines
127 that the potential is low for adverse environmental impacts from
128 planting Casuarina cunninghamiana as windbreaks, the department
129 may by rule allow the use of Casuarina cunninghamiana windbreaks
130 for commercial citrus groves in other areas of the state. If it
131 is determined at the end of the 5-year pilot program that
132 additional time is needed to further evaluate Casuarina
133 cunninghamiana, the department shall remain the lead agency.

134 (c) Each application for a special permit shall be
135 accompanied by a fee in an amount determined by the department by
136 rule, not to exceed \$500. A special permit shall be required for

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137 each noncontiguous commercial citrus grove and shall be renewed
138 every 5 years. The property owner is responsible for maintaining
139 and producing for inspection the original nursery invoice with
140 certification documentation. If ownership of the property is
141 transferred, the seller must notify the department and provide to
142 the buyer a copy of the special permit and copies of all invoices
143 and certification documentation before the closing of the sale.

144 (d) Each application shall include a baseline survey of all
145 lands within 500 feet of the proposed Casuarina cunninghamiana
146 windbreak showing the location and identification to species of
147 all existing Casuarina spp.

148 (e) Nurseries authorized to produce Casuarina
149 cunninghamiana must obtain a special permit from the department
150 certifying that the plants have been vegetatively propagated from
151 sexually mature male source trees currently grown in the state.
152 The importation of Casuarina cunninghamiana from any area outside
153 the state to be used as a propagation source tree is prohibited.
154 Each male source tree must be registered by the department as
155 being a horticulturally true-to-type male plant and be labeled
156 with a source tree registration number. Each nursery application
157 for a special permit shall be accompanied by a fee in an amount
158 determined by the department by rule, not to exceed \$200. Special
159 permits shall be renewed annually. The department shall set the
160 amount of an annual fee by rule, which may not exceed \$50, for
161 each Casuarina cunninghamiana registered as a source tree.
162 Nurseries may sell Casuarina cunninghamiana only to a person who
163 has a special permit as specified in paragraphs (a) and (b). The
164 source tree registration numbers of the parent plants must be
165 documented on each invoice or other certification documentation
166 provided to the buyer.



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167 (f) All Casuarina cunninghamiana must be destroyed by the
168 property owner within 6 months after:

169 1. The property owner takes permanent action to no longer
170 use the site for commercial citrus production;

171 2. The site has not been used for commercial citrus
172 production for a period of 5 years; or

173 3. The department determines that the Casuarina
174 cunninghamiana on the site has become invasive. The department's
175 determination shall be based on, but need not limited to, the
176 recommendation of the Noxious Weed and Invasive Plant Review
177 Committee and the Department of Environmental Protection, in
178 consultation with a representative of the citrus industry who has
179 a Casuarina cunninghamiana windbreak.

180
181 If the owner or person in charge refuses or neglects to comply,
182 the director or his or her authorized representative may, under
183 authority of the department, proceed to destroy the plants. The
184 expense of the destruction shall be assessed, collected, and
185 enforced against the owner by the department. If the owner does
186 not pay the assessed cost, the department may record a lien
187 against the property.

188 (g) The use of Casuarina cunninghamiana for windbreaks does
189 not preclude the department from issuing permits for the research
190 or release of biological control agents to control Casuarina spp.
191 in accordance with s. 581.083.

192 (h) The use of Casuarina cunninghamiana for windbreaks may
193 not restrict or interfere with any other agency or local
194 government effort to manage or control noxious weeds or invasive
195 plants, including Casuarina cunninghamiana, and another agency
196 or local government may not remove any Casuarina cunninghamiana



197 planted as a windbreak under a special permit issued by the
198 department.

199 (i) The department shall develop and implement a
200 monitoring protocol to determine the invasiveness of Casuarina
201 cunninghamiana. The monitoring protocol shall, at a minimum,
202 require:

203 1. Inspection of the planting site by department
204 inspectors within 30 days following initial planting or any
205 subsequent planting of Casuarina cunninghamiana to ensure the
206 criteria of the special permit have been met.

207 2. Annual site inspections of planting sites and all lands
208 within 500 feet of the planted windbreak by department
209 inspectors who have been trained to identify Casuarina spp. and
210 to make determinations of whether Casuarina cunninghamiana has
211 spread beyond the permitted windbreak location.

212 3. The removal of any new seedlings found within 500 feet
213 of the planted windbreak, which shall be identified to the
214 species level and evaluated to determine if hybridization has
215 occurred.

216 4. The department to submit an annual report and a final
217 5-year evaluation identifying any adverse effects resulting from
218 the planting of Casuarina cunninghamiana for windbreaks and
219 documenting all inspections and the results of those inspections
220 to the Noxious Weed and Invasive Plant Review Committee, the
221 Department of Environmental Protection, and a designated
222 representative of the citrus industry who has a Casuarina
223 cunninghamiana windbreak.

224 (j) If the department determines that female flowers or
225 cones have been produced on any Casuarina cunninghamiana that
226 have been planted under a special permit issued by the

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227 department, the property owner shall destroy the trees. The
228 department shall notify the property owner of the timeframe and
229 method of destruction.

230 (k) If at any time the department determines that
231 hybridization has occurred during the pilot program between
232 Casuarina cunninghamiana planted as a windbreak and other
233 Casuarina spp., the department shall expeditiously initiate
234 research to determine the invasiveness of the hybrid. The
235 information obtained from this research shall be evaluated by
236 the Noxious Weed and Invasive Plant Review Committee, the
237 Department of Environmental Protection, and a designated
238 representative of the citrus industry who has a Casuarina
239 cunninghamiana windbreak. If the department determines that the
240 hybrids have a high potential to become invasive based on, but
241 not limited to, the recommendation of the Noxious Weed and
242 Invasive Plant Review Committee, the Department of Environmental
243 Protection, and a designated representative of the citrus
244 industry who has a Casuarina cunninghamiana windbreak, this
245 pilot program shall be permanently suspended.

246 (l) Each application for a special permit must be
247 accompanied by a fee as described in paragraph (c) and an
248 agreement that the property owner shall abide by all permit
249 conditions, including the removal of Casuarina cunninghamiana,
250 if invasive populations or other adverse environmental factors
251 are determined to be present by the department as a result of
252 the use of Casuarina cunninghamiana as windbreaks. The
253 application must include, on a form provided by the department,
254 the name of the applicant, the applicant's address or the
255 address of the applicant's principal place of business, a
256 statement of the estimated cost of removing and destroying the



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257 Casuarina cunninghamiana that is the subject of the special
258 permit, and the basis for calculating or determining that
259 estimate. If the applicant is a corporation, partnership, or
260 other business entity, the applicant must also provide in the
261 application the name and address of each officer, partner, or
262 managing agent. The applicant shall notify the department within
263 30 business days after any change of address or change in the
264 principal place of business. The department shall mail all
265 notices to the applicant's last known address.

266 1. Upon obtaining a permit, the permitholder must annually
267 maintain the Casuarina cunninghamiana authorized by a special
268 permit as required in the permit. If the permitholder ceases to
269 maintain the Casuarina cunninghamiana as required by the special
270 permit, if the permit expires, or if the permitholder ceases to
271 abide by the conditions of the special permit, the permitholder
272 shall remove and destroy the Casuarina cunninghamiana in a
273 timely manner as specified in the permit.

274 2. If the department determines that:

275 a. The permitholder is no longer maintaining the Casuarina
276 cunninghamiana and has not removed and destroyed the Casuarina
277 cunninghamiana authorized by the special permit;

278 b. The continued use of Casuarina cunninghamiana as
279 windbreaks presents an imminent danger to public health, safety,
280 or welfare; or

281 c. The permitholder has exceeded the conditions of the
282 authorized special permit,

283

284 the department may issue an immediate final order, which shall
285 be immediately appealable or enjoicable as provided by chapter
286 120, directing the permitholder to immediately remove and



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287 destroy the Casuarina cunninghamiana authorized to be planted
288 under the special permit. A copy of the immediate final order
289 shall be mailed to the permitholder.

290 3. If, upon issuance by the department of an immediate
291 final order to the permitholder, the permitholder fails to
292 remove and destroy the Casuarina cunninghamiana subject to the
293 special permit within 60 days after issuance of the order, or a
294 shorter period as public health, safety, or welfare requires,
295 the department may remove and destroy the Casuarina
296 cunninghamiana that are the subject of the special permit. If
297 the permitholder makes a written request to the department for
298 an extension of time to remove and destroy the Casuarina
299 cunninghamiana which demonstrates specific facts showing why the
300 Casuarina cunninghamiana could not be reasonably removed and
301 destroyed in the applicable timeframe, the department may extend
302 the time for removing and destroying Casuarina cunninghamiana
303 subject to a special permit. The reasonable costs and expenses
304 incurred by the department for removing and destroying Casuarina
305 cunninghamiana, subject to a special permit, shall be paid out
306 of the Citrus Inspection Trust Fund and shall be reimbursed by
307 the party to whom the immediate final order is issued. If the
308 party to whom the immediate final order has been issued fails to
309 reimburse the state within 60 days, the department may record a
310 lien on the property. The lien shall be enforced under state law
311 by the department.

312 4. In order to carry out the purposes of this subsection,
313 the department or its agents may require from any permitholder
314 verified statements of the planted acreage subject to the
315 special permit and may review the permitholder's business or
316 planting records at his or her place of business during normal

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317 business hours in order to determine the acreage planted. The
318 failure of a permit holder to furnish such statement or to make
319 such records available is cause for suspension of the special
320 permit. If the department finds such failure to be willful, the
321 special permit may be revoked.

322 Section 6. Subsection (1) of section 604.15, Florida
323 Statutes, is amended to read:

324 604.15 Dealers in agricultural products; definitions.--For
325 the purpose of ss. 604.15-604.34, the following words and terms,
326 when used, shall be construed to mean:

327 (1) "Agricultural products" means the natural products of
328 the farm, nursery, grove, orchard, vineyard, garden, and apiary
329 (raw or manufactured); sod; ~~tropical foliage~~; horticulture; hay;
330 livestock; milk and milk products; poultry and poultry products;
331 the fruit of the saw palmetto (meaning the fruit of the *Serenoa*
332 *repens*); limes (meaning the fruit *Citrus aurantifolia*, variety
333 Persian, Tahiti, Bearss, or Florida Key limes); and any other
334 nonexempt agricultural products produced in the state, except
335 tobacco, sugarcane, tropical foliage, timber and timber
336 byproducts, forest products as defined in s. 591.17, and citrus
337 other than limes.

338 Section 7. Section 823.145, Florida Statutes, is amended to
339 read:

340 823.145 Disposal by open burning of certain materials ~~mulch~~
341 ~~plastic~~ used in agricultural operations.--Polyethylene
342 agricultural mulch plastic; damaged, nonsalvageable, untreated
343 wood pallets; and packing material that cannot be feasibly
344 recycled, which are used in connection with agricultural
345 operations related to the growing, harvesting, or maintenance of
346 crops, may be disposed of by open burning provided that no public



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347 nuisance or any condition adversely affecting the environment or
348 the public health is created thereby and that state or federal
349 national ambient air quality standards are not violated.

350 Section 8. This act shall take effect July 1, 2008.

351
352 ===== T I T L E A M E N D M E N T =====

353 And the title is amended as follows:

354 Delete everything before the enacting clause
355 and insert:

356 A bill to be entitled
357 An act relating to agriculture; amending s. 163.3162,
358 F.S.; prohibiting county government imposition of an
359 assessment or fee for stormwater management on
360 agricultural land meeting certain requirements; amending
361 s. 205.064, F.S.; expanding the applicability of an
362 exemption from a local business tax receipt for the
363 privilege of selling specified products; creating s.
364 500.70, F.S.; providing that a tomato farmer, packer,
365 repacker, or handler acts in good faith if certain
366 requirements are met; amending s. 570.07, F.S.;
367 authorizing the Department of Agriculture and Consumer
368 Services to adopt rules relating to the comprehensive
369 best-management practice for agricultural production and
370 food safety; amending s. 581.091, F.S.; providing
371 conditions for use of Casuarina cunninghamiana as a
372 windbreak for commercial citrus groves; providing for
373 permitting and permit fees; providing for destruction of
374 Casuarina cunninghamiana; providing that use as a
375 windbreak does not preclude research or release of agents
376 to control Casuarina spp.; providing that the use of



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377 Casuarina cunninghamiana for windbreaks does not interfere
378 with or restrict efforts to manage or control noxious
379 weeds or invasive plants; prohibiting any other agency or
380 local government from removing Casuarina cunninghamiana
381 planted as a windbreak under special permit; requiring the
382 removal of Casuarina cunninghamiana under certain
383 conditions; requiring that the permitholder pay the costs
384 of removal; providing for a lien against the property of a
385 permitholder for failure to pay such costs; amending s.
386 604.15, F.S.; revising the term "agricultural products" to
387 exempt tropical foliage from regulation; amending s.
388 823.145, F.S.; expanding the materials used in
389 agricultural operations that can be openly burned;
390 providing limitations; providing an effective date.