

By Senator Dean

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1 A bill to be entitled
2 An act relating to agriculture; amending s. 163.3162,
3 F.S.; prohibiting county government imposition of a tax,
4 assessment, or fee for stormwater management on
5 agricultural land meeting certain requirements; amending
6 s. 205.064, F.S.; expanding eligibility for exemption from
7 a local business tax receipt for the privilege of selling
8 specified products; amending s. 373.1395, F.S.; providing
9 indemnity for an agricultural landowner for an easement or
10 any other right secured by a water management district for
11 access to lands the district provides or makes available
12 to the public; delineating what is covered by
13 indemnification for landowners and water management
14 districts; providing that agricultural landowners and
15 water management districts are liable for gross negligence
16 and certain other acts as specified; creating s. 500.70,
17 F.S.; delineating requirements for a tomato farmer,
18 packer, repacker, or handler to be considered in
19 compliance with state food safety microbial standards and
20 guidelines; amending s. 570.07, F.S.; providing that the
21 Department of Agriculture and Consumer Services may adopt
22 by rule comprehensive best-management practices for
23 agricultural production and food safety; amending s.
24 604.15, F.S.; revising a definition to make tropical
25 foliage exempt from regulation under provisions relating
26 to dealers in agricultural products; amending s. 604.50,
27 F.S.; expanding county and municipal exemptions for
28 nonresidential farm buildings to include permits and
29 impact fees; amending s. 823.145, F.S.; expanding the

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30 materials used in agricultural operations that can be
31 openly burned; providing certain limitations on such
32 burning; providing an effective date.

33
34 Be It Enacted by the Legislature of the State of Florida:

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36 Section 1. Subsection (4) of section 163.3162, Florida
37 Statutes, is amended to read:

38 163.3162 Agricultural Lands and Practices Act.--

39 (4) DUPLICATION OF REGULATION.--Except as otherwise
40 provided in this section and s. 487.051(2), and notwithstanding
41 any other law, including any provision of chapter 125 or this
42 chapter, a county may not exercise any of its powers to adopt or
43 enforce any ordinance, resolution, regulation, rule, or policy to
44 prohibit, restrict, regulate, or otherwise limit an activity of a
45 bona fide farm operation on land classified as agricultural land
46 pursuant to s. 193.461, if such activity is regulated through
47 implemented best-management ~~best-management~~ practices, interim
48 measures, or regulations developed by the Department of
49 Environmental Protection, the Department of Agriculture and
50 Consumer Services, or a water management district and adopted
51 under chapter 120 as part of a statewide or regional program; or
52 if such activity is expressly regulated by the United States
53 Department of Agriculture, the United States Army Corps of
54 Engineers, or the United States Environmental Protection Agency.
55 A county may not impose a tax, assessment, or fee for stormwater
56 management on land classified as agricultural land pursuant to s.
57 193.461, if the agricultural operation has an agricultural
58 discharge permit or implements best-management practices

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59 developed by the Department of Environmental Protection, the
60 Department of Agriculture and Consumer Services, or a water
61 management district and adopted under chapter 120 as part of a
62 statewide or regional program.

63 (a) When an activity of a farm operation takes place within
64 a wellfield protection area as defined in any wellfield
65 protection ordinance adopted by a county, and the implemented
66 best-management ~~best management~~ practice, regulation, or interim
67 measure does not specifically address wellfield protection, a
68 county may regulate that activity pursuant to such ordinance.
69 This subsection does not limit the powers and duties provided for
70 in s. 373.4592 or limit the powers and duties of any county to
71 address an emergency as provided for in chapter 252.

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

77 (c) This subsection does not limit the powers of a
78 predominantly urbanized county with a population greater than
79 1,500,000 and more than 25 municipalities, not operating under a
80 home rule charter adopted pursuant to ss. 10, 11, and 24, Art.
81 VIII of the Constitution of 1885, as preserved by s. 6(e), Art.
82 VIII of the Constitution of 1968, which has a delegated pollution
83 control program under s. 403.182 and includes drainage basins
84 that are part of the Everglades Stormwater Program, to enact
85 ordinances, regulations, or other measures to comply with the
86 provisions of s. 373.4592, or which are necessary to carrying out
87 a county's duties pursuant to the terms and conditions of any

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88 environmental program delegated to the county by agreement with a
89 state agency.

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

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

96 205.064 Farm, aquacultural, grove, horticultural,
97 floricultural, tropical piscicultural, and tropical fish farm
98 products; certain exemptions.--

99 (1) A local business tax receipt is not required of any
100 ~~natural~~ person for the privilege of engaging in the selling of
101 farm, aquacultural, grove, horticultural, floricultural, tropical
102 piscicultural, or tropical fish farm products, or products
103 manufactured therefrom, except intoxicating liquors, wine, or
104 beer, when such products were grown or produced by such ~~natural~~
105 person in the state.

106 Section 3. Subsection (2) and paragraph (a) of subsection
107 (3) of section 373.1395, Florida Statutes, are amended, present
108 subsection (4) is renumbered as subsection (5) and amended,
109 present subsection (5) is renumbered as subsection (6), and a new
110 subsection (4) is added to that section, to read:

111 373.1395 Limitation on liability of water management
112 district with respect to areas made available to the public for
113 recreational purposes without charge.--

114 (2) Except as provided in subsection (5) ~~(4)~~, a water
115 management district that provides the public with a park area or
116 other land for outdoor recreational purposes, or allows access

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117 over district lands for recreational purposes, owes no duty of
118 care to keep that park area or land safe for entry or use by
119 others or to give warning to persons entering or going on that
120 park area or land of any hazardous conditions, structures, or
121 activities thereon. A water management district that provides the
122 public with a park area or other land for outdoor recreational
123 purposes does not, by providing that park area or land, extend
124 any assurance that such park area or land is safe for any
125 purpose, does not incur any duty of care toward a person who goes
126 on that park area or land, and is not responsible for any injury
127 to persons or property caused by an act or omission of a person
128 who goes on that park area or land. This subsection does not
129 apply if there is any charge made or usually made for entering or
130 using the park area or land, or if any commercial or other
131 activity from which profit is derived from the patronage of the
132 public is conducted on such park area or land or any part
133 thereof.

134 (3) (a) Except as provided in subsection (5) ~~(4)~~, a water
135 management district that leases any land or water area to the
136 state for outdoor recreational purposes, or for access to outdoor
137 recreational purposes, owes no duty of care to keep that land or
138 water area safe for entry or use by others or to give warning to
139 persons entering or going on that land or water of any hazardous
140 conditions, structures, or activities thereon. A water management
141 district that leases a land or water area to the state for
142 outdoor recreational purposes does not, by giving such lease,
143 extend any assurance that such land or water area is safe for any
144 purpose, incur any duty of care toward a person who goes on the
145 leased land or water area, and is not responsible for any injury

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146 to persons or property caused by an act or omission of a person
147 who goes on the leased land or water area.

148 (4) Where a water management district has secured an
149 easement or other right that is being used for the purpose of
150 providing access through private land classified as agricultural
151 land pursuant to s. 193.461 to lands that the water management
152 district provides or makes available to the public for outdoor
153 recreational purposes, the water management district shall
154 indemnify and save harmless the owner of the agricultural land
155 from any liability arising from use of such easement by the
156 general public or by the employees and agents of the water
157 management district or other regulatory agencies. Except as
158 provided in subsection (5), a water management district that
159 enters into such easement owes no duty of care to keep that
160 access area safe for entry or use by others or to give warning to
161 persons entering or going on that access area of any hazardous
162 conditions, structures, or activities thereon. A water management
163 district that secures such an easement does not, by securing the
164 easement, extend any assurance that such access area is safe for
165 any purpose or incur any duty of care toward a person who goes on
166 the access area and is not responsible for any injury to persons
167 or property caused by an act of omission of a person who uses the
168 access area.

169 (5)(4)- This section does not relieve any water management
170 district or agricultural landowner of any liability that would
171 otherwise exist for gross negligence or a deliberate, willful, or
172 malicious injury to a person or property. This section does not
173 create or increase the liability of any water management district
174 or person beyond that which is authorized by s. 768.28.

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175 ~~(6)~~(5) The term "outdoor recreational purposes," as used in
176 this section, includes activities such as, but not limited to,
177 horseback riding, hunting, fishing, bicycling, swimming, boating,
178 camping, picnicking, hiking, pleasure driving, nature study,
179 water skiing, motorcycling, and visiting historical,
180 archaeological, scenic, or scientific sites.

181 Section 4. Section 500.70, Florida Statutes, is created to
182 read:

183 500.70 Food safety compliance relating to tomatoes.--A
184 tomato farmer, packer, repacker, or handler that implements
185 applicable good agricultural practices (GAPs) and best-management
186 practices (BMPs) according to rules adopted by the department is
187 considered to have acted in good faith, with reasonable care, and
188 in compliance with state food safety microbial standards or
189 guidelines unless a violation of or noncompliance with such
190 measures can be shown through inspections.

191 Section 5. Subsection (10) of section 570.07, Florida
192 Statutes, is amended to read:

193 570.07 Department of Agriculture and Consumer Services;
194 functions, powers, and duties.--The department shall have and
195 exercise the following functions, powers, and duties:

196 (10) To act as adviser to producers and distributors, when
197 requested, and to assist them in the economical and efficient
198 distribution of their agricultural products and to encourage
199 cooperative effort among producers to gain economical and
200 efficient production of agricultural products. The department may
201 adopt by rule, pursuant to ss. 120.536(1) and 120.54,
202 comprehensive best-management practices for agricultural
203 production and food safety.

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

206 604.15 Dealers in agricultural products; definitions.--For
207 the purpose of ss. 604.15-604.34, the following words and terms,
208 when used, shall be construed to mean:

209 (1) "Agricultural products" means the natural products of
210 the farm, nursery, grove, orchard, vineyard, garden, and apiary
211 (raw or manufactured); sod; ~~tropical foliage~~; horticulture; hay;
212 livestock; milk and milk products; poultry and poultry products;
213 the fruit of the saw palmetto (meaning the fruit of the *Serenoa*
214 *repens*); limes (meaning the fruit *Citrus aurantifolia*, variety
215 Persian, Tahiti, Bearss, or Florida Key limes); and any other
216 nonexempt agricultural products produced in the state, except
217 tobacco, sugarcane, tropical foliage, timber and timber
218 byproducts, forest products as defined in s. 591.17, and citrus
219 other than limes.

220 Section 7. Section 604.50, Florida Statutes, is amended to
221 read:

222 604.50 Nonresidential farm buildings.--Notwithstanding any
223 other law to the contrary, any nonresidential farm building is
224 exempt from the Florida Building Code and any county or municipal
225 permit, building code, or impact fee. For purposes of this
226 section, the term "nonresidential farm building" means any
227 building or support structure that is used for agricultural
228 purposes, is located on a farm that is not used as a residential
229 dwelling, and is located on land that is an integral part of a
230 farm operation or is classified as agricultural land under s.
231 193.461. The term "farm" is as defined in s. 823.14.

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232 Section 8. Section 823.145, Florida Statutes, is amended to
233 read:

234 823.145 Disposal by open burning of certain materials ~~mulch~~
235 ~~plastic~~ used in agricultural operations.--Polyethylene
236 agricultural mulch plastic; damaged, nonsalvageable, untreated
237 wood pallets; and packing material that cannot be feasibly
238 recycled, which are used in connection with agricultural
239 operations related to the growing, harvesting, or maintenance of
240 crops, may be disposed of by open burning provided that no public
241 nuisance or any condition adversely affecting the environment or
242 the public health is created thereby and that state or federal
243 national ambient air quality standards are not violated.

244 Section 9. This act shall take effect July 1, 2008.