

By the Committee on Agriculture; and Senators Dean and Bennett

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1 A bill to be entitled

2 An act relating to agriculture and consumer services;
3 amending s. 163.3162, F.S.; prohibiting county government
4 imposition of an assessment or fee for stormwater
5 management on agricultural land meeting certain
6 requirements; amending s. 205.064, F.S.; expanding
7 eligibility for exemption from a local business tax
8 receipt for the privilege of selling specified products;
9 amending s. 373.1395, F.S.; providing indemnity for an
10 agricultural landowner for an easement or any other right
11 secured by a water management district for access to lands
12 the district provides or makes available to the public;
13 delineating what is covered by indemnification for
14 landowners and water management districts; providing that
15 agricultural landowners and water management districts are
16 liable for gross negligence and certain other acts as
17 specified; creating s. 500.70, F.S.; delineating
18 requirements for a tomato farmer, packer, repacker, or
19 handler to be considered in compliance with state food
20 safety microbial standards and guidelines; amending s.
21 570.07, F.S.; providing that the Department of Agriculture
22 and Consumer Services may adopt by rule comprehensive
23 best-management practices for agricultural production and
24 food safety; amending s. 583.13, F.S.; revising the
25 labeling and advertising requirements for dressed poultry;
26 amending s. 604.15, F.S.; revising a definition to make
27 tropical foliage exempt from regulation under provisions
28 relating to dealers in agricultural products; amending s.
29 604.50, F.S.; expanding county and municipal exemptions

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30 for nonresidential farm buildings to include permits and
31 impact fees; amending s. 823.145, F.S.; expanding the
32 materials used in agricultural operations that can be
33 openly burned; providing certain limitations on such
34 burning; amending s. 849.094, F.S.; providing for
35 computer-based electronic sweepstakes game promotions in
36 connection with the sale of a consumer product or service;
37 providing operator requirements; requiring the written
38 approval of the Department of Agriculture and Consumer
39 Services; providing an effective date.

40
41 Be It Enacted by the Legislature of the State of Florida:

42
43 Section 1. Subsection (4) of section 163.3162, Florida
44 Statutes, is amended to read:

45 163.3162 Agricultural Lands and Practices Act.--

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

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59 | if such activity is expressly regulated by the United States
60 | Department of Agriculture, the United States Army Corps of
61 | Engineers, or the United States Environmental Protection Agency.
62 | A county may not impose an assessment or fee for stormwater
63 | management on land classified as agricultural land pursuant to s.
64 | 193.461, if the agricultural operation has an agricultural
65 | discharge permit or implements best-management practices
66 | developed by the Department of Environmental Protection, the
67 | Department of Agriculture and Consumer Services, or a water
68 | management district and adopted under chapter 120 as part of a
69 | statewide or regional program.

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

79 | (b) This subsection may not be construed to permit an
80 | existing farm operation to change to a more excessive farm
81 | operation with regard to traffic, noise, odor, dust, or fumes
82 | where the existing farm operation is adjacent to an established
83 | homestead or business on March 15, 1982.

84 | (c) This subsection does not limit the powers of a
85 | predominantly urbanized county with a population greater than
86 | 1,500,000 and more than 25 municipalities, not operating under a
87 | home rule charter adopted pursuant to ss. 10, 11, and 24, Art.

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88 VIII of the Constitution of 1885, as preserved by s. 6(e), Art.
89 VIII of the Constitution of 1968, which has a delegated pollution
90 control program under s. 403.182 and includes drainage basins
91 that are part of the Everglades Stormwater Program, to enact
92 ordinances, regulations, or other measures to comply with the
93 provisions of s. 373.4592, or which are necessary to carrying out
94 a county's duties pursuant to the terms and conditions of any
95 environmental program delegated to the county by agreement with a
96 state agency.

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

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

103 205.064 Farm, aquacultural, grove, horticultural,
104 floricultural, tropical piscicultural, and tropical fish farm
105 products; certain exemptions.--

106 (1) A local business tax receipt is not required of any
107 ~~natural~~ person for the privilege of engaging in the selling of
108 farm, aquacultural, grove, horticultural, floricultural, tropical
109 piscicultural, or tropical fish farm products, or products
110 manufactured therefrom, except intoxicating liquors, wine, or
111 beer, when such products were grown or produced by such ~~natural~~
112 person in the state.

113 Section 3. Subsection (2) and paragraph (a) of subsection
114 (3) of section 373.1395, Florida Statutes, are amended, present
115 subsection (4) of that section is renumbered as subsection (5)
116 and amended, present subsection (5) of that section is renumbered

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117 as subsection (6), and a new subsection (4) is added to that
118 section, to read:

119 373.1395 Limitation on liability of water management
120 district with respect to areas made available to the public for
121 recreational purposes without charge.--

122 (2) Except as provided in subsection (5) ~~(4)~~, a water
123 management district that provides the public with a park area or
124 other land for outdoor recreational purposes, or allows access
125 over district lands for recreational purposes, owes no duty of
126 care to keep that park area or land safe for entry or use by
127 others or to give warning to persons entering or going on that
128 park area or land of any hazardous conditions, structures, or
129 activities thereon. A water management district that provides the
130 public with a park area or other land for outdoor recreational
131 purposes does not, by providing that park area or land, extend
132 any assurance that such park area or land is safe for any
133 purpose, does not incur any duty of care toward a person who goes
134 on that park area or land, and is not responsible for any injury
135 to persons or property caused by an act or omission of a person
136 who goes on that park area or land. This subsection does not
137 apply if there is any charge made or usually made for entering or
138 using the park area or land, or if any commercial or other
139 activity from which profit is derived from the patronage of the
140 public is conducted on such park area or land or any part
141 thereof.

142 (3) (a) Except as provided in subsection (5) ~~(4)~~, a water
143 management district that leases any land or water area to the
144 state for outdoor recreational purposes, or for access to outdoor
145 recreational purposes, owes no duty of care to keep that land or

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146 water area safe for entry or use by others or to give warning to
147 persons entering or going on that land or water of any hazardous
148 conditions, structures, or activities thereon. A water management
149 district that leases a land or water area to the state for
150 outdoor recreational purposes does not, by giving such lease,
151 extend any assurance that such land or water area is safe for any
152 purpose, incur any duty of care toward a person who goes on the
153 leased land or water area, and is not responsible for any injury
154 to persons or property caused by an act or omission of a person
155 who goes on the leased land or water area.

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

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175 or property caused by an act of omission of a person who uses the
176 access area.

177 ~~(5)~~~~(4)~~ This section does not relieve any water management
178 district or agricultural landowner of any liability that would
179 otherwise exist for gross negligence or a deliberate, willful, or
180 malicious injury to a person or property. This section does not
181 create or increase the liability of any water management district
182 or person beyond that which is authorized by s. 768.28.

183 ~~(6)~~~~(5)~~ The term "outdoor recreational purposes," as used in
184 this section, includes activities such as, but not limited to,
185 horseback riding, hunting, fishing, bicycling, swimming, boating,
186 camping, picnicking, hiking, pleasure driving, nature study,
187 water skiing, motorcycling, and visiting historical,
188 archaeological, scenic, or scientific sites.

189 Section 4. Section 500.70, Florida Statutes, is created to
190 read:

191 500.70 Food safety compliance relating to tomatoes.--A
192 tomato farmer, packer, repacker, or handler that implements
193 applicable good agricultural practices (GAPs) and best-management
194 practices (BMPs) according to rules adopted by the department is
195 considered to have acted in good faith, with reasonable care, and
196 in compliance with state food safety microbial standards or
197 guidelines unless a violation of or noncompliance with such
198 measures can be shown through inspections.

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

201 570.07 Department of Agriculture and Consumer Services;
202 functions, powers, and duties.--The department shall have and
203 exercise the following functions, powers, and duties:

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204 (10) To act as adviser to producers and distributors, when
205 requested, and to assist them in the economical and efficient
206 distribution of their agricultural products and to encourage
207 cooperative effort among producers to gain economical and
208 efficient production of agricultural products. The department may
209 adopt by rule, pursuant to ss. 120.536(1) and 120.54,
210 comprehensive best-management practices for agricultural
211 production and food safety.

212 Section 6. Section 582.13, Florida Statutes, is amended to
213 read:

214 583.13 Labeling and advertising requirements for dressed
215 poultry; unlawful acts.--

216 (1) It is unlawful for any dealer or broker to sell, offer
217 for sale, or hold for the purpose of sale in the state any
218 dressed or ready-to-cook poultry in bulk unless such poultry is
219 packed in a container clearly bearing a label, not less than 3
220 inches by 5 inches, on which shall be plainly and legibly
221 printed, in letters not less than one-fourth inch ~~1/4~~ in height,
222 ~~the grade and the part name or whole-bird statement of such~~
223 ~~poultry. The grade may be expressed in the term "premium,"~~
224 ~~"good," or "standard," or as the grade of another state or~~
225 ~~federal agency the standards of quality of which, by law, are~~
226 ~~equal to the standards of quality provided by this law and rules~~
227 ~~promulgated hereunder.~~

228 (2) It is unlawful to sell unpackaged dressed or ready-to-
229 cook poultry at retail unless such poultry is labeled by a
230 placard immediately adjacent to the poultry or unless each bird
231 is individually labeled to show ~~the grade and the part name or~~
232 ~~whole-bird statement.~~ The placard shall be no smaller than 7

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233 inches by 7 inches in size, and the required labeling information
234 shall be legibly and plainly printed on the placard in letters
235 not smaller than 1 inch in height.

236 (3) It is unlawful to sell packaged dressed or ready-to-
237 cook poultry at retail unless such poultry is labeled to show ~~the~~
238 ~~grade,~~ the part name or whole-bird statement, the net weight of
239 the poultry, and the name and address of the dealer. The size of
240 the type on the label must be one-eighth inch or larger. A
241 placard immediately adjacent to such poultry may be used to
242 indicate ~~the grade and~~ the part name or whole-bird statement, but
243 not the net weight of the poultry or the name and address of the
244 dealer.

245 (4) It is unlawful to use dressed or ready-to-cook poultry
246 in bulk in the preparation of food served to the public, or to
247 hold such poultry for the purpose of such use, unless the poultry
248 when received was packed in a container clearly bearing a label,
249 not less than 3 inches by 5 inches, on which was plainly and
250 legibly printed, in letters not less than one-fourth inch in
251 height, ~~the grade and~~ the part name or whole-bird statement of
252 such poultry. ~~The grade may be expressed in the term "premium,"~~
253 ~~"good," or "standard," or as the grade of another state or~~
254 ~~federal agency the standards of quality of which, by law, are~~
255 ~~equal to the standards of quality provided by this law and rules~~
256 ~~promulgated hereunder.~~

257 (5) It is unlawful to offer dressed or ready-to-cook
258 poultry for sale in any advertisement in a newspaper or circular,
259 on radio or television, or in any other form of advertising
260 without plainly designating in such advertisement ~~the grade and~~
261 the part name or whole-bird statement of such poultry.

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263 Section 7. Subsection (1) of section 604.15, Florida
264 Statutes, is amended to read:

265 604.15 Dealers in agricultural products; definitions.--For
266 the purpose of ss. 604.15-604.34, the following words and terms,
267 when used, shall be construed to mean:

268 (1) "Agricultural products" means the natural products of
269 the farm, nursery, grove, orchard, vineyard, garden, and apiary
270 (raw or manufactured); sod; ~~tropical foliage~~; horticulture; hay;
271 livestock; milk and milk products; poultry and poultry products;
272 the fruit of the saw palmetto (meaning the fruit of the *Serenoa*
273 *repens*); limes (meaning the fruit *Citrus aurantifolia*, variety
274 Persian, Tahiti, Bearss, or Florida Key limes); and any other
275 nonexempt agricultural products produced in the state, except
276 tobacco, sugarcane, tropical foliage, timber and timber
277 byproducts, forest products as defined in s. 591.17, and citrus
278 other than limes.

279 Section 8. Section 604.50, Florida Statutes, is amended to
280 read:

281 604.50 Nonresidential farm buildings.--Notwithstanding any
282 other law to the contrary, any nonresidential farm building is
283 exempt from the Florida Building Code and any county or municipal
284 permit, building code, or impact fee. For purposes of this
285 section, the term "nonresidential farm building" means any
286 building or support structure that is used for agricultural
287 purposes, is located on a farm that is not used as a residential
288 dwelling, and is located on land that is an integral part of a
289 farm operation or is classified as agricultural land under s.
290 193.461. The term "farm" is as defined in s. 823.14.

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291 Section 9. Section 823.145, Florida Statutes, is amended to
292 read:

293 823.145 Disposal by open burning of certain materials ~~mulch~~
294 ~~plastic~~ used in agricultural operations.--Polyethylene
295 agricultural mulch plastic; damaged, nonsalvageable, untreated
296 wood pallets; and packing material that cannot be feasibly
297 recycled, which are used in connection with agricultural
298 operations related to the growing, harvesting, or maintenance of
299 crops, may be disposed of by open burning provided that no public
300 nuisance or any condition adversely affecting the environment or
301 the public health is created thereby and that state or federal
302 national ambient air quality standards are not violated.

303 Section 10. Present subsections (8), (9), and (10) of
304 section 849.094, Florida Statutes, are renumbered as subsections
305 (9), (10), and (11), respectively, and a new subsection (8) is
306 added to that section, to read:

307 849.094 Game promotion in connection with sale of consumer
308 products or services.--

309 (8) An operator who elects to conduct a computer-based
310 electronic sweepstakes game promotion in connection with the sale
311 of any consumer product or service, regardless of the total
312 announced value of the prizes, shall receive written approval
313 from the Department of Agriculture and Consumer Services in order
314 to conduct the game promotion if the operator:

315 (a) Files an electronic sweepstakes game promotion
316 application with the Department of Agriculture and Consumer
317 Services and provides a complete list of available sweepstake
318 prizes and the odds of winning each prize and pays any applicable
319 fees per computer terminal;

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320 (b) Establishes a trust account or posts a surety bond in
321 the amount of \$1 million, unless exempted by the Department of
322 Agriculture and Consumer Services pursuant to paragraph (4) (b);
323 and

324 (c) Obtains an independent certification from a gaming
325 device testing laboratory approved by the Department of
326 Agriculture and Consumer Services or the Department of Business
327 and Professional Regulation confirming that the computer-based
328 electronic sweepstakes game promotion is using a finite software
329 game system to determine sweepstake winners and all advertised
330 prizes are obtainable. An operator who has conducted game
331 promotions in this state for at least 5 consecutive years and who
332 has not had any civil, criminal, or administrative action
333 instituted against him or her by an agency of the state for a
334 violation of this section within that 5-year period may be
335 exempted from this subsection.

336 Section 11. This act shall take effect July 1, 2008.