

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

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 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
 44 to prohibit, restrict, regulate, or otherwise limit an activity
 45 of a bona fide farm operation on land classified as agricultural
 46 land pursuant to s. 193.461, if such activity is regulated
 47 through implemented best management practices, interim measures,
 48 or regulations developed by the Department of Environmental
 49 Protection, the Department of Agriculture and Consumer Services,
 50 or a water management district and adopted under chapter 120 as
 51 part of a statewide or regional program; or if such activity is
 52 expressly regulated by the United States Department of
 53 Agriculture, the United States Army Corps of Engineers, or the
 54 United States Environmental Protection Agency. A county may not
 55 impose a tax, assessment, or fee for stormwater management on
 56 land classified as agricultural land pursuant to s. 193.461, if

57 the agricultural operation has an agricultural discharge permit
 58 or implements best management practices developed by the
 59 Department of Environmental Protection, the Department of
 60 Agriculture and Consumer Services, or a water management
 61 district and adopted under chapter 120 as part of a statewide or
 62 regional program.

63 (a) When an activity of a farm operation takes place
 64 within a wellfield protection area as defined in any wellfield
 65 protection ordinance adopted by a county, and the implemented
 66 best management practice, regulation, or interim measure does
 67 not specifically address wellfield protection, a county may
 68 regulate that activity pursuant to such ordinance. This
 69 subsection does not limit the powers and duties provided for in
 70 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
 83 pollution control program under s. 403.182 and includes drainage
 84 basins that are part of the Everglades Stormwater Program, to

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85 enact ordinances, regulations, or other measures to comply with
86 the provisions of s. 373.4592, or which are necessary to
87 carrying out a county's duties pursuant to the terms and
88 conditions of any environmental program delegated to the county
89 by agreement with a state agency.

90 (d) For purposes of this subsection, a county ordinance
91 that regulates the transportation or land application of
92 domestic wastewater residuals or other forms of sewage sludge
93 shall not be 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,
102 tropical piscicultural, or tropical fish farm products, or
103 products manufactured therefrom, except intoxicating liquors,
104 wine, or beer, when such products were grown or produced by such
105 ~~natural~~ 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
110 new subsection (4) is added to that section, to read:

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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
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
122 the public with a park area or other land for outdoor
123 recreational purposes does not, by providing that park area or
124 land, extend any assurance that such park area or land is safe
125 for any purpose, does not incur any duty of care toward a person
126 who goes on that park area or land, and is not responsible for
127 any injury to persons or property caused by an act or omission
128 of a person who goes on that park area or land. This subsection
129 does not apply if there is any charge made or usually made for
130 entering or using the park area or land, or if any commercial or
131 other activity from which profit is derived from the patronage
132 of the 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
137 outdoor recreational purposes, owes no duty of care to keep that
138 land or water area safe for entry or use by others or to give

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139 warning to persons entering or going on that land or water of
140 any hazardous conditions, structures, or activities thereon. A
141 water management district that leases a land or water area to
142 the state for outdoor recreational purposes does not, by giving
143 such lease, extend any assurance that such land or water area is
144 safe for any purpose, incur any duty of care toward a person who
145 goes on the leased land or water area, and is not responsible
146 for any injury to persons or property caused by an act or
147 omission of a person 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
161 to persons entering or going on that access area of any
162 hazardous conditions, structures, or activities thereon. A water
163 management district that secures such an easement does not, by
164 securing the easement, extend any assurance that such access
165 area is safe for any purpose or incur any duty of care toward a
166 person who goes on the access area and is not responsible for

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167 any injury to persons or property caused by an act of omission
 168 of a person who uses the 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,
 172 or malicious injury to a person or property. This section does
 173 not create or increase the liability of any water management
 174 district or person beyond that which is authorized by s. 768.28.

175 ~~(6)(5)~~ The term "outdoor recreational purposes," as used
 176 in this section, includes activities such as, but not limited
 177 to, horseback riding, hunting, fishing, bicycling, swimming,
 178 boating, camping, picnicking, hiking, pleasure driving, nature
 179 study, 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,
 188 and 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
 201 may adopt by rule, pursuant to ss. 120.536(1) and 120.54,
 202 comprehensive best management practices for agricultural
 203 production and food safety.

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.

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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
 225 municipal permit, building code, or impact fee. For purposes of
 226 this 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.

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

234 823.145 Disposal by open burning of certain materials
 235 ~~mulch 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
 241 public nuisance or any condition adversely affecting the
 242 environment or the public health is created thereby and that
 243 state or federal national ambient air quality standards are not
 244 violated.

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