

1 A bill to be entitled
2 An act relating to agriculture; repealing s. 106.082,
3 F.S., relating to campaign contributions to Commissioner
4 of Agriculture candidates; amending s. 163.3162, F.S.;
5 prohibiting county government enforcement of certain
6 ordinances, resolutions, regulations, rules, or policies
7 relating to certain activities of bona fide farm operation
8 on land classified as agricultural; allowing county
9 government imposition of an assessment or fee for
10 stormwater management on agricultural land under certain
11 conditions; prohibiting county government imposition of an
12 assessment or fee for stormwater management on
13 agricultural land meeting certain requirements; providing
14 for the county to enforce certain ordinances, regulations,
15 or rules adopted prior to a date certain; amending s.
16 205.064, F.S.; expanding eligibility for exemption from a
17 local business tax receipt for the privilege of selling
18 specified products; creating s. 500.70, F.S.; delineating
19 requirements for a tomato farmer, packer, repacker, or
20 handler to be considered in compliance with state food
21 safety microbial standards and guidelines; amending s.
22 570.07, F.S.; providing that the Department of Agriculture
23 and Consumer Services may adopt by rule comprehensive best
24 management practices for agricultural production and food
25 safety; amending s. 581.091, F.S.; providing conditions
26 for use of *Casuarina cunninghamiana* as a windbreak for
27 commercial citrus groves; defining the term "commercial
28 citrus grove"; providing for permitting and permit fees;

29 providing for destruction of *Casuarina cunninghamiana*;
 30 specifying responsibility and liability for removal and
 31 destruction of such trees; providing that use as a
 32 windbreak does not preclude research or release of agents
 33 to control *Casuarina spp.*; providing that the use of
 34 *Casuarina cunninghamiana* for windbreaks does not interfere
 35 with or restrict efforts to manage or control noxious
 36 weeds or invasive plants; prohibiting any other agency or
 37 local government from removing *Casuarina cunninghamiana*
 38 planted as a windbreak under special permit; amending s.
 39 604.15, F.S.; revising a definition to make tropical
 40 foliage exempt from regulation under provisions relating
 41 to dealers in agricultural products; amending s. 823.145,
 42 F.S.; expanding the materials used in agricultural
 43 operations that can be openly burned; providing certain
 44 limitations on such burning; providing an effective date.

45

46 Be It Enacted by the Legislature of the State of Florida:

47

48 Section 1. Section 106.082, Florida Statutes, is repealed.

49 Section 2. Subsection (4) of section 163.3162, Florida

50 Statutes, is amended to read:

51 163.3162 Agricultural Lands and Practices Act.--

52 (4) DUPLICATION OF REGULATION.--Except as otherwise
 53 provided in this section and s. 487.051(2), and notwithstanding
 54 any other law, including any provision of chapter 125 or this
 55 chapter, a county may not exercise any of its powers to adopt or
 56 enforce any ordinance, resolution, regulation, rule, or policy

57 | to prohibit, restrict, regulate, or otherwise limit an activity
58 | of a bona fide farm operation on land classified as agricultural
59 | land pursuant to s. 193.461, if such activity is regulated
60 | through implemented best management practices, interim measures,
61 | or regulations developed by the Department of Environmental
62 | Protection, the Department of Agriculture and Consumer Services,
63 | or a water management district and adopted under chapter 120 as
64 | part of a statewide or regional program; or if such activity is
65 | expressly regulated by the United States Department of
66 | Agriculture, the United States Army Corps of Engineers, or the
67 | United States Environmental Protection Agency. A local
68 | government may impose a stormwater management fee or assessment
69 | on lands classified as agricultural pursuant to s. 193.461
70 | provided the agricultural lands contribute to municipal separate
71 | stormwater system permitted facilities and credits against the
72 | cost of the fees or assessments are provided according to the
73 | amount of water quality treatment and water quantity management
74 | achieved by best management practices implemented according to
75 | rules adopted by the Department of Agriculture and Consumer
76 | Services or a water management district. The amount of credit
77 | shall be determined by the local government after consultation
78 | with the Department of Agriculture and Consumer Services.
79 | However, a local government shall not impose a stormwater
80 | management fee or assessment on agricultural lands used for
81 | forestry or unimproved pasture or on such agricultural lands
82 | where activities are governed by an agricultural discharge
83 | permit or environmental resource permit which specifically

84 addresses the stormwater management requirements of the
85 municipal separate stormwater system permit.

86 (a) When an activity of a farm operation takes place
87 within a wellfield protection area as defined in any wellfield
88 protection ordinance adopted by a county, and the implemented
89 best management practice, regulation, or interim measure does
90 not specifically address wellfield protection, a county may
91 regulate that activity pursuant to such ordinance. This
92 subsection does not limit the powers and duties provided for in
93 s. 373.4592 or limit the powers and duties of any county to
94 address an emergency as provided for in chapter 252.

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

100 (c) This subsection does not limit the powers of a
101 predominantly urbanized county with a population greater than
102 1,500,000 and more than 25 municipalities, not operating under a
103 home rule charter adopted pursuant to ss. 10, 11, and 24, Art.
104 VIII of the Constitution of 1885, as preserved by s. 6(e), Art.
105 VIII of the Constitution of 1968, which has a delegated
106 pollution control program under s. 403.182 and includes drainage
107 basins that are part of the Everglades Stormwater Program, to
108 enact ordinances, regulations, or other measures to comply with
109 the provisions of s. 373.4592, or which are necessary to
110 carrying out a county's duties pursuant to the terms and

111 conditions of any environmental program delegated to the county
 112 by agreement with a state agency.

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

117 (e) This subsection does not limit the powers of a county
 118 to enforce applicable wetland protection ordinances,
 119 regulations, or rules duly adopted prior to April 1, 2008.

120 Section 3. Subsection (1) of section 205.064, Florida
 121 Statutes, is amended to read:

122 205.064 Farm, aquacultural, grove, horticultural,
 123 floricultural, tropical piscicultural, and tropical fish farm
 124 products; certain exemptions.--

125 (1) A local business tax receipt is not required of any
 126 ~~natural~~ person for the privilege of engaging in the selling of
 127 farm, aquacultural, grove, horticultural, floricultural,
 128 tropical piscicultural, or tropical fish farm products, or
 129 products manufactured therefrom, except intoxicating liquors,
 130 wine, or beer, when such products were grown or produced by such
 131 ~~natural~~ person in the state.

132 Section 4. Section 500.70, Florida Statutes, is created to
 133 read:

134 500.70 Food safety compliance relating to tomatoes.-- A
 135 tomato farmer, packer, repacker, or handler that implements
 136 applicable good agricultural practices and best management
 137 practices according to rules adopted by the department is
 138 considered to have acted in good faith, with reasonable care,

139 and in compliance with state food safety microbial standards or
 140 guidelines unless a violation of or noncompliance with such
 141 measures can be shown through inspections.

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

144 570.07 Department of Agriculture and Consumer Services;
 145 functions, powers, and duties.--The department shall have and
 146 exercise the following functions, powers, and duties:

147 (10) To act as adviser to producers and distributors, when
 148 requested, and to assist them in the economical and efficient
 149 distribution of their agricultural products and to encourage
 150 cooperative effort among producers to gain economical and
 151 efficient production of agricultural products. The department
 152 may adopt by rule, pursuant to ss. 120.536(1) and 120.54,
 153 comprehensive best management practices for agricultural
 154 production and food safety.

155 Section 6. Subsection (5) is added to section 581.091,
 156 Florida Statutes, to read:

157 581.091 Noxious weeds and infected plants or regulated
 158 articles; sale or distribution; receipt; information to
 159 department; withholding information.--

160 (5) (a) Notwithstanding any other provision of state law or
 161 rule, a person may obtain a special permit from the department
 162 to plant *Casuarina cunninghamiana* as a windbreak for a
 163 commercial citrus grove provided the plants are produced in an
 164 authorized registered nursery and certified by the department as
 165 being vegetatively propagated from male plants. A "commercial
 166 citrus grove" means a contiguous planting of 100 or more citrus

167 trees where citrus fruit is produced for sale.

168 (b) For a 5-year period, special permits authorizing a
169 person to plant *Casuarina cunninghamiana* shall be issued only as
170 part of a pilot program for fresh fruit groves in areas of
171 Indian River, St. Lucie, and Martin Counties where citrus canker
172 is determined by the department to be widespread. The pilot
173 program shall be reevaluated annually and a comprehensive review
174 shall be conducted in 2013. The purpose of the annual and 5-year
175 reviews is to determine if the use of *Casuarina cunninghamiana*
176 as an agricultural pest and disease windbreak poses any adverse
177 environmental consequences. At the end of the 5-year pilot
178 program, if the Noxious Weed and Invasive Plant Review
179 Committee, created by the department, and the Department of
180 Environmental Protection, in consultation with a representative
181 of the citrus industry who has a *Casuarina cunninghamiana*
182 windbreak, determine that the potential is low for adverse
183 environmental impacts from planting *Casuarina cunninghamiana* as
184 windbreaks, the department may, by rule, allow the use of
185 *Casuarina cunninghamiana* windbreaks for commercial citrus groves
186 in other areas of the state. If it is determined at the end of
187 the 5-year pilot program that additional time is needed to
188 further evaluate *Casuarina cunninghamiana*, the department will
189 remain the lead agency.

190 (c) Each application for a special permit shall be
191 accompanied by a fee in an amount determined by the department,
192 by rule, not to exceed \$500. A special permit shall be required
193 for each noncontiguous commercial citrus grove and shall be
194 renewed every 5 years. The property owner is responsible for

195 maintaining and producing for inspection the original nursery
196 invoice with certification documentation. If ownership of the
197 property is transferred, the seller must notify the department
198 and provide the buyer with a copy of the special permit and
199 copies of all invoices and certification documentation prior to
200 the closing of the sale.

201 (d) Each application shall include a baseline survey of
202 all lands within 500 feet of the proposed *Casuarina*
203 *cunninghamiana* windbreak showing the location and identification
204 to species of all existing *Casuarina spp.*

205 (e) Nurseries authorized to produce *Casuarina*
206 *cunninghamiana* must obtain a special permit from the department
207 certifying that the plants have been vegetatively propagated
208 from sexually mature male source trees currently grown in the
209 state. The importation of *Casuarina cunninghamiana* from any area
210 outside the state to be used as a propagation source tree is
211 prohibited. Each male source tree must be registered by the
212 department as being a horticulturally true to type male plant
213 and be labeled with a source tree registration number. Each
214 nursery application for a special permit shall be accompanied by
215 a fee in an amount determined by the department, by rule, not to
216 exceed \$200. Special permits shall be renewed annually. The
217 department shall, by rule, set the amount of an annual fee, not
218 to exceed \$50, for each *Casuarina cunninghamiana* registered as a
219 source tree. Nurseries may only sell *Casuarina cunninghamiana* to
220 a person with a special permit as specified in paragraphs (a)
221 and (b). The source tree registration numbers of the parent

222 plants must be documented on each invoice or other certification
223 documentation provided to the buyer.

224 (f) All *Casuarina cunninghamiana* must be destroyed by the
225 property owner within 6 months after:

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

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

230 3. The department determines that the *Casuarina*
231 *cunninghamiana* on the site has become invasive. This
232 determination shall be based on, but not limited to, the
233 recommendation of the Noxious Weed and Invasive Plant Review
234 Committee and the Department of Environmental Protection and in
235 consultation with a representative of the citrus industry who
236 has a *Casuarina cunninghamiana* windbreak.

237
238 If the owner or person in charge refuses or neglects to comply,
239 the director or her or his authorized representative may, under
240 authority of the department, proceed to destroy the plants. The
241 expense of the destruction shall be assessed, collected, and
242 enforced against the owner by the department. If the owner does
243 not pay the assessed cost, the department may record a lien
244 against the property.

245 (g) The use of *Casuarina cunninghamiana* for windbreaks
246 shall not preclude the department from issuing permits for the
247 research or release of biological control agents to control
248 *Casuarina spp.* in accordance with s. 581.083.

249 (h) The use of *Casuarina cunninghamiana* for windbreaks
250 shall not restrict or interfere with any other agency or local
251 government effort to manage or control noxious weeds or invasive
252 plants, including *Casuarina cunninghamiana*, nor shall any other
253 agency or local government remove any *Casuarina cunninghamiana*
254 planted as a windbreak under special permit issued by the
255 department.

256 (i) The department shall develop and implement a
257 monitoring protocol to determine invasiveness of *Casuarina*
258 *cunninghamiana*. The monitoring protocol shall at a minimum,
259 require:

260 1. Inspection of the planting site by department
261 inspectors within 30 days following initial planting or any
262 subsequent planting of *Casuarina cunninghamiana* to ensure the
263 criteria of the special permit have been met.

264 2. Annual site inspections of planting sites and all lands
265 within 500 feet of the planted windbreak by department
266 inspectors who have been trained to identify *Casuarina spp.* and
267 to make determinations of whether *Casuarina cunninghamiana* has
268 spread beyond the permitted windbreak location.

269 3. Any new seedlings found within 500 feet of the planted
270 windbreak to be removed, identified to the species level, and
271 evaluated to determine if hybridization has occurred.

272 4. The department to submit an annual report and a final
273 5-year evaluation identifying any adverse effects resulting from
274 the planting of *Casuarina cunninghamiana* for windbreaks and
275 documenting all inspections and the results of those inspections
276 to the Noxious Weed and Invasive Plant Review Committee, the

277 Department of Environmental Protection, and a designated
278 representative of the citrus industry who has a *Casuarina*
279 *cunninghamiana* windbreak.

280 (j) If the department determines that female flowers or
281 cones have been produced on any *Casuarina cunninghamiana* that
282 have been planted under a special permit issued by the
283 department, the property owner shall be responsible for
284 destroying the trees. The department shall notify the property
285 owner of the timeframe and method of destruction.

286 (k) If at any time the department determines that
287 hybridization has occurred during the pilot program between
288 *Casuarina cunninghamiana* planted as a windbreak and other
289 *Casuarina spp.*, the department shall expeditiously initiate
290 research to determine the invasiveness of the hybrid. The
291 information obtained from this research shall be evaluated by
292 the Noxious Weed and Invasive Plant Review Committee, the
293 Department of Environmental Protection, and a designated
294 representative of the citrus industry who has a *Casuarina*
295 *cunninghamiana* windbreak. If the department determines that the
296 hybrids have a high potential to become invasive, based on, but
297 not limited to, the recommendation of the Noxious Weed and
298 Invasive Plant Review Committee, the Department of Environmental
299 Protection, and a designated representative of the citrus
300 industry who has a *Casuarina cunninghamiana* windbreak, this
301 pilot program shall be permanently suspended.

302 (l) Each application for a special permit must be
303 accompanied by a fee as described in paragraph (c) and an
304 agreement that the property owner will abide by all permit

305 conditions including the removal of *Casuarina cunninghamiana* if
306 invasive populations or other adverse environmental factors are
307 determined to be present by the department as a result of the
308 use of *Casuarina cunninghamiana* as windbreaks. The application
309 must include, on a form provided by the department, the name of
310 the applicant and the applicant's address or the address of the
311 applicant's principal place of business; a statement of the
312 estimated cost of removing and destroying the *Casuarina*
313 *cunninghamiana* that is the subject of the special permit; and
314 the basis for calculating or determining that estimate. If the
315 applicant is a corporation, partnership, or other business
316 entity, the applicant must also provide in the application the
317 name and address of each officer, partner, or managing agent.
318 The applicant shall notify the department within 30 business
319 days of any change of address or change in the principal place
320 of business. The department shall mail all notices to the
321 applicant's last known address.

322 1. Upon obtaining a permit, the permit holder must annually
323 maintain the *Casuarina cunninghamiana* authorized by a special
324 permit as required in the permit. If the permit holder ceases to
325 maintain the *Casuarina cunninghamiana* as required by the special
326 permit, if the permit expires, or if the permit holder ceases to
327 abide by the conditions of the special permit, the permit holder
328 shall remove and destroy the *Casuarina cunninghamiana* in a
329 timely manner as specified in the permit.

330 2. If the department:

331 a. Determines that the permit holder is no longer
332 maintaining the *Casuarina cunninghamiana* subject to the special

333 permit and has not removed and destroyed the *Casuarina*
334 *cunninghamiana* authorized by the special permit;

335 b. Determines that the continued use of *Casuarina*
336 *cunninghamiana* as windbreaks presents an imminent danger to
337 public health, safety, or welfare; or

338 c. Determines that the permitholder has exceeded the
339 conditions of the authorized special permit;

340

341 The department may issue an immediate final order, which shall
342 be immediately appealable or enjoicable as provided by chapter
343 120, directing the permitholder to immediately remove and
344 destroy the *Casuarina cunninghamiana* authorized to be planted
345 under the special permit. A copy of the immediate final order
346 shall be mailed to the permitholder.

347 3. If, upon issuance by the department of an immediate
348 final order to the permitholder, the permitholder fails to
349 remove and destroy the *Casuarina cunninghamiana* subject to the
350 special permit within 60 days after issuance of the order, or
351 such shorter period as is designated in the order as public
352 health, safety, or welfare requires, the department may remove
353 and destroy the *Casuarina cunninghamiana* that are the subject of
354 the special permit. If the permitholder makes a written request
355 to the department for an extension of time to remove and destroy
356 the *Casuarina cunninghamiana* that demonstrates specific facts
357 showing why the *Casuarina cunninghamiana* could not reasonably be
358 removed and destroyed in the applicable timeframe, the
359 department may extend the time for removing and destroying
360 *Casuarina cunninghamiana* subject to a special permit. The

361 reasonable costs and expenses incurred by the department for
 362 removing and destroying *Casuarina cunninghamiana* subject to a
 363 special permit shall be paid out of the Citrus Inspection Trust
 364 Fund and shall be reimbursed by the party to which the immediate
 365 final order is issued. If the party to which the immediate final
 366 order has been issued fails to reimburse the state within 60
 367 days, the department may record a lien on the property. The lien
 368 shall be enforced by the department.

369 4. In order to carry out the purposes of this paragraph,
 370 the department or its agents may require a permitholder to
 371 provide verified statements of the planted acreage subject to
 372 the special permit and may review the permitholder's business or
 373 planting records at her or his place of business during normal
 374 business hours in order to determine the acreage planted. The
 375 failure of a permitholder to furnish such statement or to make
 376 such records available is cause for suspension of the special
 377 permit. If the department finds such failure to be willful, the
 378 special permit may be revoked.

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

381 604.15 Dealers in agricultural products; definitions.--For
 382 the purpose of ss. 604.15-604.34, the following words and terms,
 383 when used, shall be construed to mean:

384 (1) "Agricultural products" means the natural products of
 385 the farm, nursery, grove, orchard, vineyard, garden, and apiary
 386 (raw or manufactured); sod; ~~tropical foliage~~; horticulture; hay;
 387 livestock; milk and milk products; poultry and poultry products;
 388 the fruit of the saw palmetto (meaning the fruit of the *Serenoa*

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389 | repens); limes (meaning the fruit Citrus aurantifolia, variety
 390 | Persian, Tahiti, Bearss, or Florida Key limes); and any other
 391 | nonexempt agricultural products produced in the state, except
 392 | tobacco, sugarcane, tropical foliage, timber and timber
 393 | byproducts, forest products as defined in s. 591.17, and citrus
 394 | other than limes.

395 | Section 8. Section 823.145, Florida Statutes, is amended
 396 | to read:

397 | 823.145 Disposal by open burning of certain materials
 398 | ~~mulch plastic~~ used in agricultural operations.--Polyethylene
 399 | agricultural mulch plastic; damaged, nonsalvageable, untreated
 400 | wood pallets; and packing material that cannot be feasibly
 401 | recycled, which are used in connection with agricultural
 402 | operations related to the growing, harvesting, or maintenance of
 403 | crops, may be disposed of by open burning provided that no
 404 | public nuisance or any condition adversely affecting the
 405 | environment or the public health is created thereby and that
 406 | state or federal national ambient air quality standards are not
 407 | violated.

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