

1 A bill to be entitled
2 An act relating to agriculture; amending s. 205.064, F.S.;
3 authorizing a person selling certain agricultural products
4 who is not a natural person to qualify for an exemption
5 from obtaining a local business tax receipt; amending s.
6 322.01, F.S.; revising the term "farm tractor" for
7 purposes of drivers' licenses; amending s. 500.03, F.S.;
8 revising the term "food establishment" to include tomato
9 repackers for purposes of the Florida Food Safety Act;
10 creating s. 500.70, F.S.; defining the terms "field
11 packing," "packing" or "repacking," and "producing";
12 requiring the Department of Agriculture and Consumer
13 Services to adopt minimum food safety standards for the
14 producing, harvesting, packing, and repacking of tomatoes;
15 authorizing the department to inspect tomato farms,
16 greenhouses, and packinghouses or repackers for compliance
17 with the standards and certain provisions of the Florida
18 Food Safety Act; providing penalties; authorizing the
19 department to publish guidance for the state's tomato
20 industry; providing a presumption that tomatoes introduced
21 into commerce are safe for human consumption under certain
22 circumstances; authorizing the department to adopt rules;
23 amending s. 570.07, F.S.; authorizing the department to
24 adopt best management practices for agricultural
25 production and food safety; amending s. 570.48, F.S.;
26 revising duties of the Division of Fruit and Vegetables
27 for tomato food safety inspections; amending s. 604.15,
28 F.S.; revising the term "agricultural products" to make

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29 tropical foliage exempt from regulation under provisions
 30 relating to dealers in agricultural products; amending s.
 31 823.145, F.S.; expanding the materials used in
 32 agricultural operations that may be disposed of by open
 33 burning; providing certain limitations on open burning;
 34 providing an effective date.

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

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 38 Section 1. Subsection (1) of section 205.064, Florida
 39 Statutes, is amended to read:

40 205.064 Farm, aquacultural, grove, horticultural,
 41 floricultural, tropical piscicultural, and tropical fish farm
 42 products; certain exemptions.--

43 (1) A local business tax receipt is not required of any
 44 ~~natural~~ person for the privilege of engaging in the selling of
 45 farm, aquacultural, grove, horticultural, floricultural,
 46 tropical piscicultural, or tropical fish farm products, or
 47 products manufactured therefrom, except intoxicating liquors,
 48 wine, or beer, when such products were grown or produced by such
 49 ~~natural~~ person in the state.

50 Section 2. Subsection (20) of section 322.01, Florida
 51 Statutes, is amended to read:

52 322.01 Definitions.--As used in this chapter:

53 (20) "Farm tractor" means a motor vehicle that is:

54 (a) Operated principally on a farm, grove, or orchard in
 55 agricultural or horticultural pursuits and that is operated on
 56 the roads of this state only incidentally to transportation

57 between the owner's or operator's headquarters and the farm,
 58 grove, or orchard or between one farm, grove, or orchard and
 59 another; or

60 (b) Designed and used primarily as a farm implement for
 61 drawing plows, mowing machines, and other implements of
 62 husbandry.

63 Section 3. Paragraph (n) of subsection (1) of section
 64 500.03, Florida Statutes, is amended to read:

65 500.03 Definitions; construction; applicability.--

66 (1) For the purpose of this chapter, the term:

67 (n) "Food establishment" means any factory, food outlet,
 68 or any other facility manufacturing, processing, packing,
 69 holding, or preparing food, or selling food at wholesale or
 70 retail. The term does not include any business or activity that
 71 is regulated under chapter 509 or chapter 601. The term includes
 72 tomato packinghouses and repackers but does not include any
 73 other establishments that pack fruits and vegetables in their
 74 raw or natural states, including those fruits or vegetables that
 75 are washed, colored, or otherwise treated in their unpeeled,
 76 natural form before they are marketed.

77 Section 4. Section 500.70, Florida Statutes, is created to
 78 read:

79 500.70 Tomato food safety standards; inspections;
 80 penalties; tomato good agricultural practices; tomato best
 81 management practices.--

82 (1) As used in this section, the term:

83 (a) "Field packing" means the packing of tomatoes on a
 84 tomato farm or in a tomato greenhouse into containers for sale

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85 for human consumption without transporting the tomatoes to a
86 packinghouse.

87 (b) "Packing" or "repacking" means the packing of tomatoes
88 into containers for sale for human consumption. The term
89 includes the sorting or separating of tomatoes into grades and
90 sizes. The term also includes field packing.

91 (c) "Producing" means the planting, growing, or
92 cultivating of tomatoes on a tomato farm or in a tomato
93 greenhouse for sale for human consumption.

94 (2) The department may adopt rules establishing food
95 safety standards to safeguard the public health and promote the
96 public welfare by protecting the consuming public from injury
97 caused by the adulteration or the microbiological, chemical, or
98 radiological contamination of tomatoes. The rules must be based
99 on federal requirements, available scientific research,
100 generally accepted industry practice, and recommendations of
101 food safety professionals. The rules shall apply to the
102 producing, harvesting, packing, and repacking of tomatoes for
103 sale for human consumption by a tomato farm, tomato greenhouse,
104 or tomato packinghouse or repacker in this state. The rules may
105 include, but are not limited to, standards for:

106 (a) Registration with the department of a person who
107 produces, harvests, packs, or repacks tomatoes in this state who
108 does not hold a food permit issued under s. 500.12.

109 (b) Proximity of domestic animals and livestock to the
110 production areas for tomatoes.

111 (c) Food safety related use of water for irrigation during
112 production and washing of tomatoes after harvest.

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113 (d) Use of fertilizers.

114 (e) Cleaning and sanitation of containers, materials,
115 equipment, vehicles, and facilities, including storage and
116 ripening areas.

117 (f) Health, hygiene, and sanitation of employees who
118 handle tomatoes.

119 (g) Training and continuing education of a person who
120 produces, harvests, packs, or repacks tomatoes in this state,
121 and the person's employees who handle tomatoes.

122 (h) Labeling and recordkeeping, including standards for
123 identifying and tracing tomatoes for sale for human consumption.

124 (3) (a) The department may inspect tomato farms, tomato
125 greenhouses, tomato packinghouses, repacking locations, or any
126 vehicle being used to transport or hold tomatoes to insure
127 compliance with the applicable provisions of this chapter, and
128 the rules adopted under this chapter.

129 (b) The department may impose an administrative fine not
130 to exceed \$5,000 per violation, or issue a written notice or
131 warning under s. 500.179, against a person who violates any
132 applicable provision of this chapter, or any rule adopted under
133 this chapter.

134 (4) (a) The department may adopt rules establishing tomato
135 good agricultural practices and tomato best management practices
136 as guidance for the state's tomato industry based on applicable
137 federal requirements, available scientific research, generally
138 accepted industry practices, and recommendations of food safety
139 professionals.

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140 (b) A person who documents compliance with the
141 department's rules, tomato good agricultural practices, and
142 tomato best management practices is presumed to introduce
143 tomatoes into the stream of commerce that are safe for human
144 consumption, unless the department identifies noncompliance
145 through inspections.

146 (5) The department may adopt rules pursuant to ss.
147 120.536(1) and 120.54 to administer this section.

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

150 570.07 Department of Agriculture and Consumer Services;
151 functions, powers, and duties.--The department shall have and
152 exercise the following functions, powers, and duties:

153 (10) To act as adviser to producers and distributors, when
154 requested, ~~and~~ to assist them in the economical and efficient
155 distribution of their agricultural products, ~~and~~ to encourage
156 cooperative effort among producers to gain economical and
157 efficient production of agricultural products, and to adopt
158 rules pursuant to ss. 120.536(1) and 120.54 establishing
159 comprehensive best management practices for agricultural
160 production and food safety.

161 Section 6. Paragraph (e) of subsection (2) of section
162 570.48, Florida Statutes, is amended to read:

163 570.48 Division of Fruit and Vegetables; powers and
164 duties; records.--The duties of the Division of Fruit and
165 Vegetables include, but are not limited to:

166 (2)

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167 (e) Performing tomato food safety inspections under s.
 168 500.70 on tomato farms, in tomato greenhouses, and in tomato
 169 packinghouses and repackers.

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

172 604.15 Dealers in agricultural products; definitions.--For
 173 the purpose of ss. 604.15-604.34, the following words and terms,
 174 when used, shall be construed to mean:

175 (1) "Agricultural products" means the natural products of
 176 the farm, nursery, grove, orchard, vineyard, garden, and apiary
 177 (raw or manufactured); sod; ~~tropical foliage~~; horticulture; hay;
 178 livestock; milk and milk products; poultry and poultry products;
 179 the fruit of the saw palmetto (meaning the fruit of the Serenoa
 180 repens); limes (meaning the fruit Citrus aurantifolia, variety
 181 Persian, Tahiti, Bearss, or Florida Key limes); and any other
 182 nonexempt agricultural products produced in the state, except
 183 tobacco, sugarcane, tropical foliage, timber and timber
 184 byproducts, forest products as defined in s. 591.17, and citrus
 185 other than limes.

186 Section 8. Section 823.145, Florida Statutes, is amended
 187 to read:

188 823.145 Disposal by open burning of certain materials
 189 ~~mulch plastic~~ used in agricultural operations.--Polyethylene
 190 agricultural mulch plastic; damaged, nonsalvageable, untreated
 191 wood pallets; and packing material that cannot be feasibly
 192 recycled, which are used in connection with agricultural
 193 operations related to the growing, harvesting, or maintenance of
 194 crops, may be disposed of by open burning provided that no

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195 public nuisance or any condition adversely affecting the
196 environment or the public health is created thereby and that
197 state or federal national ambient air quality standards are not
198 violated.

199 Section 9. This act shall take effect July 1, 2009.