

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 establish good agricultural practices and  
20          best management practices for the state's tomato industry;  
21          providing a presumption that tomatoes introduced into  
22          commerce are safe for human consumption under certain  
23          circumstances; authorizing the department to adopt rules;  
24          amending s. 570.07, F.S.; authorizing the department to  
25          adopt best management practices for agricultural  
26          production and food safety; amending s. 570.48, F.S.;  
27          revising duties of the Division of Fruit and Vegetables  
28          for tomato food safety inspections; amending s. 604.15,

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

36

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

38

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

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

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

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

53 322.01 Definitions.--As used in this chapter:

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

55 (a) Operated principally on a farm, grove, or orchard in  
 56 agricultural or horticultural pursuits and that is operated on

57 the roads of this state only incidentally to transportation  
 58 between the owner's or operator's headquarters and the farm,  
 59 grove, or orchard or between one farm, grove, or orchard and  
 60 another; or

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

64 Section 3. Paragraph (n) of subsection (1) of section  
 65 500.03, Florida Statutes, is amended to read:

66 500.03 Definitions; construction; applicability.--

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

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

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

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

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

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84        (a) "Field packing" means the packing of tomatoes on a  
85 tomato farm or in a tomato greenhouse into containers for sale  
86 for human consumption without transporting the tomatoes to a  
87 packinghouse.

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

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

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

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

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

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

114 (d) Use of fertilizers.

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

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

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

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

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

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

135 (4) (a) The department may adopt rules establishing tomato  
136 good agricultural practices and tomato best management practices  
137 for the state's tomato industry based on applicable federal  
138 requirements, available scientific research, generally accepted

139 industry practices, and recommendations of food safety  
 140 professionals.

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

147 (5) The department may adopt rules pursuant to ss.  
 148 120.536(1) and 120.54 to administer this section.

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

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

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