

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; providing exemptions; authorizing the
24 department to adopt rules; amending s. 570.07, F.S.;
25 authorizing the department to adopt best management
26 practices for agricultural production and food safety;
27 amending s. 570.48, F.S.; revising duties of the Division
28 of Fruit and Vegetables for tomato food safety

29 inspections; amending s. 604.15, F.S.; revising the term
 30 "agricultural products" to make tropical foliage exempt
 31 from regulation under provisions relating to dealers in
 32 agricultural products; amending s. 823.145, F.S.;
 33 expanding the materials used in agricultural operations
 34 that may be disposed of by open burning; providing certain
 35 limitations on open burning; providing an effective date.
 36

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

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) Subsections (2) and (4) do not apply to tomatoes sold
 148 by the grower on the premises at which the tomatoes are grown or
 149 at a local farmers' market, if the quantity of tomatoes sold
 150 does not exceed two 25-pound boxes per customer.

151 (6) The department may adopt rules pursuant to ss.
 152 120.536(1) and 120.54 to administer this section.

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

155 570.07 Department of Agriculture and Consumer Services;
 156 functions, powers, and duties.--The department shall have and
 157 exercise the following functions, powers, and duties:

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

165 Section 6. Paragraph (e) of subsection (2) of section
 166 570.48, Florida Statutes, is amended to read:

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167 570.48 Division of Fruit and Vegetables; powers and
 168 duties; records.--The duties of the Division of Fruit and
 169 Vegetables include, but are not limited to:

170 (2)

171 (e) Performing tomato food safety inspections under s.
 172 500.70 on tomato farms, in tomato greenhouses, and in tomato
 173 packinghouses and repackers.

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

176 604.15 Dealers in agricultural products; definitions.--For
 177 the purpose of ss. 604.15-604.34, the following words and terms,
 178 when used, shall be construed to mean:

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

190 Section 8. Section 823.145, Florida Statutes, is amended
 191 to read:

192 823.145 Disposal by open burning of certain materials
 193 ~~mulch plastic~~ used in agricultural operations.--Polyethylene
 194 agricultural mulch plastic; damaged, nonsalvageable, untreated

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195 wood pallets; and packing material that cannot be feasibly
196 recycled, which are used in connection with agricultural
197 operations related to the growing, harvesting, or maintenance of
198 crops, may be disposed of by open burning provided that no
199 public nuisance or any condition adversely affecting the
200 environment or the public health is created thereby and that
201 state or federal national ambient air quality standards are not
202 violated.

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