

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; amending s. 163.3162, F.S.;  
36 prohibiting a county from enforcing certain limits on the  
37 activity of a bona fide farm operation on agricultural  
38 land under certain circumstances; prohibiting a county  
39 from charging agricultural lands for stormwater management  
40 assessments and fees under certain circumstances; allowing  
41 an assessment to be collected if credits against the  
42 assessment are provided for implementation of best-  
43 management practices; exempting certain wetlands and  
44 springs protection ordinances, regulations, and rules  
45 adopted before a specified date from provisions  
46 restricting a county's powers over the activity on  
47 agricultural land; creating s. 163.3163, F.S.; creating  
48 the "Agricultural Land Acknowledgement Act"; providing  
49 legislative findings and intent; providing definitions;  
50 requiring an applicant for certain development permits to  
51 sign and submit an acknowledgement of neighboring  
52 agricultural land as a condition of the political  
53 subdivision issuing the permits; specifying information to  
54 be included in the acknowledgement; requiring that the  
55 acknowledgement be permanently maintained as a public  
56 record; amending s. 604.50, F.S.; exempting farm fences

57 | from the Florida Building Code; exempting nonresidential  
 58 | farm buildings and farm fences from county and municipal  
 59 | codes and fees; specifying that the exemptions do not  
 60 | apply to code provisions implementing certain floodplain  
 61 | regulations; amending s. 689.261, F.S.; requiring  
 62 | prospective purchasers of certain residential property to  
 63 | be presented with a written acknowledgement of neighboring  
 64 | agricultural land on or before execution of the contract  
 65 | for sale unless the acknowledgement is included in the  
 66 | contract; specifying information to be included in the  
 67 | acknowledgement; providing effective dates.

68 |

69 | Be It Enacted by the Legislature of the State of Florida:

70 |

71 | Section 1. Subsection (1) of section 205.064, Florida  
 72 | Statutes, is amended to read:

73 | 205.064 Farm, aquacultural, grove, horticultural,  
 74 | floricultural, tropical piscicultural, and tropical fish farm  
 75 | products; certain exemptions.--

76 | (1) A local business tax receipt is not required of any  
 77 | ~~natural~~ person for the privilege of engaging in the selling of  
 78 | farm, aquacultural, grove, horticultural, floricultural,  
 79 | tropical piscicultural, or tropical fish farm products, or  
 80 | products manufactured therefrom, except intoxicating liquors,  
 81 | wine, or beer, when such products were grown or produced by such  
 82 | ~~natural~~ person in the state.

83 | Section 2. Subsection (20) of section 322.01, Florida  
 84 | Statutes, is amended to read:

85 322.01 Definitions.--As used in this chapter:

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

87 (a) Operated principally on a farm, grove, or orchard in  
 88 agricultural or horticultural pursuits and that is operated on  
 89 the roads of this state only incidentally to transportation  
 90 between the owner's or operator's headquarters and the farm,  
 91 grove, or orchard or between one farm, grove, or orchard and  
 92 another; or

93 (b) Designed and used primarily as a farm implement for  
 94 drawing plows, mowing machines, and other implements of  
 95 husbandry.

96 Section 3. Paragraph (n) of subsection (1) of section  
 97 500.03, Florida Statutes, is amended to read:

98 500.03 Definitions; construction; applicability.--

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

100 (n) "Food establishment" means any factory, food outlet,  
 101 or any other facility manufacturing, processing, packing,  
 102 holding, or preparing food, or selling food at wholesale or  
 103 retail. The term does not include any business or activity that  
 104 is regulated under chapter 509 or chapter 601. The term includes  
 105 tomato packinghouses and repackers but does not include any  
 106 other establishments that pack fruits and vegetables in their  
 107 raw or natural states, including those fruits or vegetables that  
 108 are washed, colored, or otherwise treated in their unpeeled,  
 109 natural form before they are marketed.

110 Section 4. Section 500.70, Florida Statutes, is created to  
 111 read:

112 500.70 Tomato food safety standards; inspections;  
 113 penalties; tomato good agricultural practices; tomato best  
 114 management practices.--

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

116 (a) "Field packing" means the packing of tomatoes on a  
 117 tomato farm or in a tomato greenhouse into containers for sale  
 118 for human consumption without transporting the tomatoes to a  
 119 packinghouse.

120 (b) "Packing" or "repacking" means the packing of tomatoes  
 121 into containers for sale for human consumption. The term  
 122 includes the sorting or separating of tomatoes into grades and  
 123 sizes. The term also includes field packing.

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

127 (2) The department may adopt rules establishing food  
 128 safety standards to safeguard the public health and promote the  
 129 public welfare by protecting the consuming public from injury  
 130 caused by the adulteration or the microbiological, chemical, or  
 131 radiological contamination of tomatoes. The rules must be based  
 132 on federal requirements, available scientific research,  
 133 generally accepted industry practices, and recommendations of  
 134 food safety professionals. The rules shall apply to the  
 135 producing, harvesting, packing, and repacking of tomatoes for  
 136 sale for human consumption by a tomato farm, tomato greenhouse,  
 137 or tomato packinghouse or repacker in this state. The rules may  
 138 include, but are not limited to, standards for:

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

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

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

146        (d) Use of fertilizers.

147        (e) Cleaning and sanitation of containers, materials,  
 148 equipment, vehicles, and facilities, including storage and  
 149 ripening areas.

150        (f) Health, hygiene, and sanitation of employees who  
 151 handle tomatoes.

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

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

157        (3) (a) The department may inspect tomato farms, tomato  
 158 greenhouses, tomato packinghouses, repacking locations, or any  
 159 vehicle being used to transport or hold tomatoes to ensure  
 160 compliance with the applicable provisions of this chapter, and  
 161 the rules adopted under this chapter.

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

167       (4) (a) The department may adopt rules establishing tomato  
168 good agricultural practices and tomato best management practices  
169 for the state's tomato industry based on applicable federal  
170 requirements, available scientific research, generally accepted  
171 industry practices, and recommendations of food safety  
172 professionals.

173       (b) A person who documents compliance with the  
174 department's rules, tomato good agricultural practices, and  
175 tomato best management practices is presumed to introduce  
176 tomatoes into the stream of commerce that are safe for human  
177 consumption, unless the department identifies noncompliance  
178 through inspections.

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

183       (6) The department may adopt rules pursuant to ss.  
184 120.536(1) and 120.54 to administer this section.

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

187       570.07 Department of Agriculture and Consumer Services;  
188 functions, powers, and duties.--The department shall have and  
189 exercise the following functions, powers, and duties:

190       (10) To act as adviser to producers and distributors, when  
191 requested, ~~and~~ to assist them in the economical and efficient  
192 distribution of their agricultural products, ~~and~~ to encourage  
193 cooperative effort among producers to gain economical and  
194 efficient production of agricultural products, and to adopt

195 rules establishing comprehensive best management practices for  
 196 agricultural production and food safety.

197 Section 6. Paragraph (e) of subsection (2) of section  
 198 570.48, Florida Statutes, is amended to read:

199 570.48 Division of Fruit and Vegetables; powers and  
 200 duties; records.--The duties of the Division of Fruit and  
 201 Vegetables include, but are not limited to:

202 (2)

203 (e) Performing tomato food safety inspections under s.  
 204 500.70 on tomato farms, in tomato greenhouses, and in tomato  
 205 packinghouses and repackers.

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

208 604.15 Dealers in agricultural products; definitions.--For  
 209 the purpose of ss. 604.15-604.34, the following words and terms,  
 210 when used, shall be construed to mean:

211 (1) "Agricultural products" means the natural products of  
 212 the farm, nursery, grove, orchard, vineyard, garden, and apiary  
 213 (raw or manufactured); sod; ~~tropical foliage~~; horticulture; hay;  
 214 livestock; milk and milk products; poultry and poultry products;  
 215 the fruit of the saw palmetto (meaning the fruit of the Serenoa  
 216 repens); limes (meaning the fruit Citrus aurantifolia, variety  
 217 Persian, Tahiti, Bearss, or Florida Key limes); and any other  
 218 nonexempt agricultural products produced in the state, except  
 219 tobacco, sugarcane, tropical foliage, timber and timber  
 220 byproducts, forest products as defined in s. 591.17, and citrus  
 221 other than limes.

222 Section 8. Section 823.145, Florida Statutes, is amended  
 223 to read:

224 823.145 Disposal by open burning of certain materials  
 225 ~~mulch plastic~~ used in agricultural operations.--Polyethylene  
 226 agricultural mulch plastic; damaged, nonsalvageable, untreated  
 227 wood pallets; and packing material that cannot be feasibly  
 228 recycled, which are used in connection with agricultural  
 229 operations related to the growing, harvesting, or maintenance of  
 230 crops, may be disposed of by open burning provided that no  
 231 public nuisance or any condition adversely affecting the  
 232 environment or the public health is created thereby and that  
 233 state or federal national ambient air quality standards are not  
 234 violated.

235 Section 9. Subsection (4) of section 163.3162, Florida  
 236 Statutes, is amended to read:

237 163.3162 Agricultural Lands and Practices Act.--

238 (4) DUPLICATION OF REGULATION.--Except as otherwise  
 239 provided in this section and s. 487.051(2), and notwithstanding  
 240 any other law, including any provision of chapter 125 or this  
 241 chapter, a county may not exercise any of its powers to adopt or  
 242 enforce any ordinance, resolution, regulation, rule, or policy  
 243 to prohibit, restrict, regulate, or otherwise limit an activity  
 244 of a bona fide farm operation on land classified as agricultural  
 245 land pursuant to s. 193.461, if such activity is regulated  
 246 through implemented best management practices, interim measures,  
 247 or regulations adopted as rules under chapter 120 ~~developed~~ by  
 248 the Department of Environmental Protection, the Department of  
 249 Agriculture and Consumer Services, or a water management

250 ~~district and adopted under chapter 120~~ as part of a statewide or  
251 regional program; or if such activity is expressly regulated by  
252 the United States Department of Agriculture, the United States  
253 Army Corps of Engineers, or the United States Environmental  
254 Protection Agency. A county may not charge an assessment or fee  
255 for stormwater management on a bona fide farm operation on land  
256 classified as agricultural land pursuant to s. 193.461, if the  
257 farm operation has a National Pollutant Discharge Elimination  
258 System permit, environmental resource permit, or works-of-the-  
259 district permit or implements best management practices adopted  
260 as rules under chapter 120 by the Department of Environmental  
261 Protection, the Department of Agriculture and Consumer Services,  
262 or a water management district as part of a statewide or  
263 regional program. However, this subsection does not prohibit a  
264 county from charging an assessment or fee for stormwater  
265 management on a bona fide farm operation that does not have a  
266 National Pollutant Discharge Elimination System permit,  
267 environmental resource permit, or works-of-the-district permit,  
268 or has not implemented water quality and quantity best-  
269 management practices as described in this subsection. For those  
270 counties that, before March 1, 2009, adopted a stormwater  
271 utility ordinance, resolution, or municipal services benefit  
272 unit or, before March 1, 2009, adopted a resolution stating its  
273 intent to use the uniform method of collection pursuant to s.  
274 197.3632 for such stormwater ordinances, the county may continue  
275 to charge an assessment or fee for stormwater management on a  
276 bona fide farm operation on land classified as agricultural  
277 pursuant to s. 193.461 if the ordinance provides credits against

278 | the assessment or fee on a bona fide farm operation for the  
 279 | implementation of best-management practices adopted as rules  
 280 | under chapter 120 by the Department of Environmental Protection,  
 281 | the Department of Agriculture and Consumer Services, or a water  
 282 | management district as part of a statewide or regional program,  
 283 | or stormwater quality and quantity measures required as part of  
 284 | a National Pollutant Discharge Elimination System permit,  
 285 | environmental resource permit, or works-of-the-district permit  
 286 | or implementation of best-management practices or alternative  
 287 | measures which the landowner demonstrates to the county to be of  
 288 | equivalent or greater stormwater benefit than those provided by  
 289 | implementation of best-management practices adopted as rules  
 290 | under chapter 120 by the Department of Environmental Protection,  
 291 | the Department of Agriculture and Consumer Services, or a water  
 292 | management district as part of a statewide or regional program,  
 293 | or stormwater quality and quantity measures required as part of  
 294 | a National Pollutant Discharge Elimination System permit,  
 295 | environmental resource permit, or works-of-the-district permit.

296 |       (a) When an activity of a farm operation takes place  
 297 | within a wellfield protection area as defined in any wellfield  
 298 | protection ordinance adopted by a county, and the implemented  
 299 | best management practice, regulation, or interim measure does  
 300 | not specifically address wellfield protection, a county may  
 301 | regulate that activity pursuant to such ordinance. This  
 302 | subsection does not limit the powers and duties provided for in  
 303 | s. 373.4592 or limit the powers and duties of any county to  
 304 | address an emergency as provided for in chapter 252.

305 |       (b) This subsection may not be construed to permit an

306 existing farm operation to change to a more excessive farm  
307 operation with regard to traffic, noise, odor, dust, or fumes  
308 where the existing farm operation is adjacent to an established  
309 homestead or business on March 15, 1982.

310 (c) This subsection does not limit the powers of a  
311 predominantly urbanized county with a population greater than  
312 1,500,000 and more than 25 municipalities, not operating under a  
313 home rule charter adopted pursuant to ss. 10, 11, and 24, Art.  
314 VIII of the Constitution of 1885, as preserved by s. 6(e), Art.  
315 VIII of the Constitution of 1968, which has a delegated  
316 pollution control program under s. 403.182 and includes drainage  
317 basins that are part of the Everglades Stormwater Program, to  
318 enact ordinances, regulations, or other measures to comply with  
319 the provisions of s. 373.4592, or which are necessary to  
320 carrying out a county's duties pursuant to the terms and  
321 conditions of any environmental program delegated to the county  
322 by agreement with a state agency.

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

327 (e) This subsection does not limit a county's powers to  
328 enforce its wetlands and springs protection ordinances,  
329 regulations, or rules adopted before January 1, 2009. As used in  
330 this section, the term "wetlands" has the same meaning as  
331 defined in s. 373.019.

332 Section 10. Section 163.3163, Florida Statutes, is created  
333 to read:

334 163.3163 Applications for development permits; disclosure  
 335 and acknowledgement of neighboring agricultural land.--

336 (1) This section may be cited as the "Agricultural Land  
 337 Acknowledgement Act."

338 (2) The Legislature finds that nonagricultural land which  
 339 neighbors agricultural land may adversely affect agricultural  
 340 production and farm operations on the agricultural land and may  
 341 lead to the agricultural land's conversion to urban, suburban,  
 342 or other nonagricultural uses. The Legislature intends to  
 343 preserve and encourage agricultural land use and to reduce the  
 344 occurrence of conflicts between agricultural and nonagricultural  
 345 land uses. The purpose of this section is to give notice to a  
 346 residential land purchaser before the contract for sale, or to  
 347 an applicant for a local land use permit, building permit, or  
 348 certificate of occupancy before issuance of a permit or  
 349 certificate, that the land neighbors agricultural land and that  
 350 certain generally accepted agricultural practices will take  
 351 place.

352 (3) As used in this section, the term:

353 (a) "Agricultural land" means land classified as  
 354 agricultural land pursuant to s. 193.461.

355 (b) "Contiguous" means touching, bordering, or adjoining  
 356 along a boundary. For purposes of this section, properties  
 357 separated only by a roadway, railroad, or other public easement  
 358 are considered contiguous.

359 (c) "Farm operation" has the same meaning as defined in s.  
 360 823.14.

361 (4) (a) Before a political subdivision issues a local land

362 use permit, building permit, or certificate of occupancy for  
 363 nonagricultural land contiguous to agricultural land, the  
 364 political subdivision shall require that, as a condition of  
 365 issuing the permit or certificate, the applicant for the permit  
 366 or certificate sign and submit to the political subdivision a  
 367 written acknowledgement of neighboring agricultural land in the  
 368 following form:

369  
 370 ACKNOWLEDGEMENT OF NEIGHBORING AGRICULTURAL LAND

371  
 372 I, ...(name of applicant)..., understand that my property  
 373 located at ...(address of nonagricultural land)... is  
 374 contiguous to agricultural land located at ...(address of  
 375 agricultural land)....

376 I acknowledge and understand that the farm operation  
 377 on the neighboring agricultural land identified herein  
 378 will be conducted according to generally accepted  
 379 agricultural practices as provided in the Florida Right to  
 380 Farm Act, s. 823.14, Florida Statutes.

381 Signature: ...(signature of applicant)....

382 Date: ...(date)....

383  
 384 (b) An acknowledgement submitted to a political  
 385 subdivision under paragraph (a) is a public record and shall be  
 386 maintained by the political subdivision as a permanent record.

387 Section 11. Section 604.50, Florida Statutes, is amended  
 388 to read:

389 604.50 Nonresidential farm buildings and farm

390 fences.--Notwithstanding any other law to the contrary, any  
 391 nonresidential farm building or farm fence is exempt from the  
 392 Florida Building Code and any county or municipal ~~building~~ code  
 393 or fee, except for code provisions implementing local, state, or  
 394 federal floodplain management regulations. For purposes of this  
 395 section, the term "nonresidential farm building" means any  
 396 building or support structure that is used for agricultural  
 397 purposes, is located on a farm that is not used as a residential  
 398 dwelling, and is located on land that is an integral part of a  
 399 farm operation or is classified as agricultural land under s.  
 400 193.461. The term "farm" is as defined in s. 823.14.

401 Section 12. Effective January 1, 2010, subsection (3) is  
 402 added to section 689.261, Florida Statutes, to read:

403 689.261 Sale of residential property; disclosure of ad  
 404 valorem taxes and neighboring agricultural land to prospective  
 405 purchaser.--

406 (3) (a) A prospective purchaser of residential property  
 407 contiguous to agricultural land must be presented with a written  
 408 acknowledgement of neighboring agricultural land on or before  
 409 execution of the contract for sale unless the acknowledgement is  
 410 included in the contract. The acknowledgement, whether included  
 411 in the contract for sale or presented as a separate document,  
 412 must be in substantially the following form:

413  
 414 ACKNOWLEDGEMENT OF NEIGHBORING AGRICULTURAL LAND

415  
 416 I, ... (name of purchaser) ... understand that my property  
 417 located at ... (address of residential property being

418 purchased)... is contiguous to agricultural land located  
 419 at ...(address of agricultural land)....

420 I acknowledge and understand that the farm operation  
 421 on the neighboring agricultural land identified herein  
 422 will be conducted according to generally accepted  
 423 agricultural practices as provided in the Florida Right to  
 424 Farm Act, s. 823.14, Florida Statutes.

425 Signature: ...(signature of purchaser) ....

426 Date: ... (date) ....

427  
 428 (b) The acknowledgment must include a signature line for  
 429 each purchaser only if the acknowledgement is presented as a  
 430 separate document from the contract for sale.

431 Section 13. Except as otherwise expressly provided in this  
 432 act, this act shall take effect July 1, 2009.

433