



905924

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2009	.	
	.	
	.	
	.	

---

The Committee on Agriculture (Dean) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

205.064 Farm, aquacultural, grove, horticultural,  
floricultural, tropical piscicultural, and tropical fish farm  
products; certain exemptions.—

(1) A local business tax receipt is not required of any  
~~natural~~ person for the privilege of engaging in the selling of  
farm, aquacultural, grove, horticultural, floricultural,



905924

13 tropical piscicultural, or tropical fish farm products, or  
14 products manufactured therefrom, except intoxicating liquors,  
15 wine, or beer, when such products were grown or produced by such  
16 ~~natural~~ person in the state.

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

19 322.01 Definitions.—As used in this chapter:

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

21 (a) Operated principally on a farm, grove, or orchard in  
22 agricultural or horticultural pursuits and that is operated on  
23 the roads of this state only incidentally to transportation  
24 between the owner's or operator's headquarters and the farm,  
25 grove, or orchard or between one farm, grove, or orchard and  
26 another; or

27 (b) Designed and used primarily as a farm implement for  
28 drawing plows, mowing machines, and other implements of  
29 husbandry.

30 Section 3. Paragraph (n) of subsection (1) of section  
31 500.03, Florida Statutes, is amended to read:

32 500.03 Definitions; construction; applicability.—

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

34 (n) "Food establishment" means any factory, food outlet, or  
35 any other facility manufacturing, processing, packing, holding,  
36 or preparing food, or selling food at wholesale or retail. The  
37 term does not include any business or activity that is regulated  
38 under chapter 509 or chapter 601. The term includes tomato  
39 packinghouses and repackers but does not include any other  
40 establishments that pack fruits and vegetables in their raw or  
41 natural states, including those fruits or vegetables that are



905924

42 washed, colored, or otherwise treated in their unpeeled, natural  
43 form before they are marketed.

44 Section 4. Section 500.70, Florida Statutes, is created to  
45 read:

46 500.70 Tomato food safety standards; inspections;  
47 penalties; tomato good agricultural practices; tomato best  
48 management practices.-

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

50 (a) "Field packing" means the packing of tomatoes on a  
51 tomato farm or in a tomato greenhouse into containers for sale  
52 for human consumption without transporting the tomatoes to a  
53 packinghouse.

54 (b) "Packing" or "repacking" means the packing of tomatoes  
55 into containers for sale for human consumption. The term  
56 includes the sorting or separating of tomatoes into grades and  
57 sizes. The term also includes field packing.

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

61 (2) The department may adopt rules establishing food safety  
62 standards to safeguard the public health and promote the public  
63 welfare by protecting the consuming public from injury caused by  
64 the adulteration or the microbiological, chemical, or  
65 radiological contamination of tomatoes. The rules must be based  
66 on federal requirements, available scientific research,  
67 generally accepted industry practices, and recommendations of  
68 food safety professionals. The rules shall apply to the  
69 producing, harvesting, packing, and repacking of tomatoes for  
70 sale for human consumption by a tomato farm, tomato greenhouse,



905924

71 or tomato packinghouse or repacker in this state. The rules may  
72 include, but are not limited to, standards for:

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

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

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

80 (d) Use of fertilizers.

81 (e) Cleaning and sanitation of containers, materials,  
82 equipment, vehicles, and facilities, including storage and  
83 ripening areas.

84 (f) Health, hygiene, and sanitation of employees who handle  
85 tomatoes.

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

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

91 (3) (a) The department may inspect tomato farms, tomato  
92 greenhouses, tomato packinghouses, repacking locations, or any  
93 vehicle being used to transport or hold tomatoes to insure  
94 compliance with the applicable provisions of this chapter, and  
95 the rules adopted under this chapter.

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



905924

100 this chapter.

101 (4) (a) The department may adopt rules establishing tomato  
102 good agricultural practices and tomato best management practices  
103 for the state's tomato industry based on applicable federal  
104 requirements, available scientific research, generally accepted  
105 industry practices, and recommendations of food safety  
106 professionals.

107 (b) A person who documents compliance with the department's  
108 rules, tomato good agricultural practices, and tomato best  
109 management practices is presumed to introduce tomatoes into the  
110 stream of commerce that are safe for human consumption, unless  
111 the department identifies noncompliance through inspections.

112 (5) The department may adopt rules pursuant to ss.  
113 120.536(1) and 120.54 to administer this section.

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

116 570.07 Department of Agriculture and Consumer Services;  
117 functions, powers, and duties.—The department shall have and  
118 exercise the following functions, powers, and duties:

119 (10) To act as adviser to producers and distributors, when  
120 requested, ~~and~~ to assist them in the economical and efficient  
121 distribution of their agricultural products, ~~and~~ to encourage  
122 cooperative effort among producers to gain economical and  
123 efficient production of agricultural products, and to adopt  
124 rules pursuant to ss. 120.536(1) and 120.54 establishing  
125 comprehensive best management practices for agricultural  
126 production and food safety.

127 Section 6. Paragraph (e) of subsection (2) of section  
128 570.48, Florida Statutes, is amended to read:



905924

129           570.48 Division of Fruit and Vegetables; powers and duties;  
130 records.—The duties of the Division of Fruit and Vegetables  
131 include, but are not limited to:

132           (2)

133           (e) Performing tomato food safety inspections under s.  
134 500.70 on tomato farms, in tomato greenhouses, and in tomato  
135 packinghouses and repackers.

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

138           604.15 Dealers in agricultural products; definitions.—For  
139 the purpose of ss. 604.15-604.34, the following words and terms,  
140 when used, shall be construed to mean:

141           (1) "Agricultural products" means the natural products of  
142 the farm, nursery, grove, orchard, vineyard, garden, and apiary  
143 (raw or manufactured); sod; ~~tropical foliage~~; horticulture; hay;  
144 livestock; milk and milk products; poultry and poultry products;  
145 the fruit of the saw palmetto (meaning the fruit of the *Serenoa*  
146 *repens*); limes (meaning the fruit *Citrus aurantifolia*, variety  
147 Persian, Tahiti, Bearss, or Florida Key limes); and any other  
148 nonexempt agricultural products produced in the state, except  
149 tobacco, sugarcane, tropical foliage, timber and timber  
150 byproducts, forest products as defined in s. 591.17, and citrus  
151 other than limes.

152           Section 8. Section 823.145, Florida Statutes, is amended to  
153 read:

154           823.145 Disposal by open burning of certain materials ~~mulch~~  
155 ~~plastic~~ used in agricultural operations.—Polyethylene  
156 agricultural ~~mulch~~ plastic; damaged, nonsalvageable, untreated  
157 wood pallets; and packing material that cannot be feasibly



905924

158 recycled, which are used in connection with agricultural  
159 operations related to the growing, harvesting, or maintenance of  
160 crops, may be disposed of by open burning provided that no  
161 public nuisance or any condition adversely affecting the  
162 environment or the public health is created thereby and that  
163 state or federal national ambient air quality standards are not  
164 violated.

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

166  
167 ===== T I T L E A M E N D M E N T =====

168 And the title is amended as follows:

169 Delete everything before the enacting clause  
170 and insert:

171 A bill to be entitled  
172 An act relating to agriculture; amending s. 205.064,  
173 F.S.; authorizing a person selling certain  
174 agricultural products who is not a natural person to  
175 qualify for an exemption from obtaining a local  
176 business tax receipt; amending s. 322.01, F.S.;  
177 revising the term "farm tractor" for purposes of  
178 drivers' licenses; amending s. 500.03, F.S.; revising  
179 the term "food establishment" to include tomato  
180 repackers for purposes of the Florida Food Safety Act;  
181 creating s. 500.70, F.S.; defining the terms "field  
182 packing," "packing" or "repacking," and "producing";  
183 requiring the Department of Agriculture and Consumer  
184 Services to adopt minimum food safety standards for  
185 the producing, harvesting, packing, and repacking of  
186 tomatoes; authorizing the department to inspect tomato



905924

187 farms, greenhouses, and packinghouses or repackers for  
188 compliance with the standards and certain provisions  
189 of the Florida Food Safety Act; providing penalties;  
190 authorizing the department to publish guidance for the  
191 state's tomato industry; providing a presumption that  
192 tomatoes introduced into commerce are safe for human  
193 consumption under certain circumstances; authorizing  
194 the department to adopt rules; amending s. 570.07,  
195 F.S.; authorizing the department to adopt best  
196 management practices for agricultural production and  
197 food safety; amending s. 570.48, F.S.; revising duties  
198 of the Division of Fruit and Vegetables for tomato  
199 food safety inspections; amending s. 604.15, F.S.;  
200 revising the term "agricultural products" to make  
201 tropical foliage exempt from regulation under  
202 provisions relating to dealers in agricultural  
203 products; amending s. 823.145, F.S.; expanding the  
204 materials used in agricultural operations that may be  
205 disposed of by open burning; providing certain  
206 limitations on open burning; providing an effective  
207 date.