

By Senator Dean

3-01062-09

20092312__

1 A bill to be entitled
2 An act relating to agriculture; amending s. 205.064,
3 F.S.; authorizing a person selling certain
4 agricultural products who is not a natural person to
5 qualify for an exemption from obtaining a local
6 business tax receipt; amending s. 316.003, F.S.;
7 revising the term "farm tractor" for purposes of state
8 uniform traffic control; amending s. 320.51, F.S.;
9 exempting certain types of motor vehicles from
10 requirements for registration, payment of license
11 taxes, and display of license plates; amending s.
12 322.01, F.S.; revising the term "farm tractor" for
13 purposes of drivers' licenses; amending s. 500.03,
14 F.S.; revising the term "food establishment" to
15 include tomato repackers for purposes of the Florida
16 Food Safety Act; creating s. 500.70, F.S.; defining
17 the terms "field packing," "packing" or "repacking,"
18 and "producing"; requiring the Department of
19 Agriculture and Consumer Services to adopt minimum
20 food safety standards for the producing, harvesting,
21 packing, and repacking of tomatoes; authorizing the
22 department to inspect tomato farms, greenhouses, and
23 packinghouses or repackers for compliance with the
24 standards and certain provisions of the Florida Food
25 Safety Act; providing penalties; authorizing the
26 department to publish nonregulatory guidance for the
27 state's tomato industry; providing a presumption that
28 tomatoes introduced into commerce are safe for human
29 consumption under certain circumstances; authorizing

3-01062-09

20092312__

30 the department to adopt rules; amending s. 570.48,
31 F.S.; revising duties of the Division of Fruit and
32 Vegetables for tomato food safety inspections;
33 amending s. 604.15, F.S.; revising the term
34 "agricultural products" to make tropical foliage
35 exempt from regulation under provisions relating to
36 dealers in agricultural products; amending s. 823.145,
37 F.S.; expanding the materials used in agricultural
38 operations that may be disposed of by open burning;
39 providing certain limitations on open burning;
40 providing an effective date.

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

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

46 205.064 Farm, aquacultural, grove, horticultural,
47 floricultural, tropical piscicultural, and tropical fish farm
48 products; certain exemptions.—

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

56 Section 2. Subsection (12) of section 316.003, Florida
57 Statutes, is amended to read:

58 316.003 Definitions.—The following words and phrases, when

3-01062-09

20092312__

59 used in this chapter, shall have the meanings respectively
60 ascribed to them in this section, except where the context
61 otherwise requires:

62 (12) FARM TRACTOR.—Any motor vehicle designed and used
63 primarily on a farm for transporting agricultural products or as
64 a farm implement for drawing plows, mowing machines, and other
65 implements of husbandry.

66 Section 3. Subsection (1) of section 320.51, Florida
67 Statutes, is amended to read:

68 320.51 Farm tractors and farm trailers exempt.—The
69 following are exempt from the provisions of this chapter which
70 require the registration of motor vehicles, the payment of
71 license taxes, and the display of license plates:

72 (1) A motor vehicle, including, but not limited to, an all-
73 terrain vehicle as defined in s. 316.2074, utility vehicle, or
74 golf cart that ~~which~~ is operated principally on a farm, grove,
75 or orchard in agricultural or horticultural pursuits and which
76 is operated on the roads of this state only incidentally in
77 going from the owner's or operator's headquarters to such farm,
78 grove, or orchard and returning therefrom or in going from one
79 farm, grove, or orchard to another; and

80
81 Nothing in this section shall be construed as exempting such
82 farm tractors and farm trailers from laws relating to the tires
83 to be used when operating on the roads of this state.

84 Section 4. Subsection (20) of section 322.01, Florida
85 Statutes, is amended to read:

86 322.01 Definitions.—As used in this chapter:

87 (20) "Farm tractor" means a motor vehicle designed and used

3-01062-09

20092312__

88 primarily on a farm for transporting agricultural products or as
89 a farm implement for drawing plows, mowing machines, and other
90 implements of husbandry.

91 Section 5. Paragraph (n) of subsection (1) of section
92 500.03, Florida Statutes, is amended to read:

93 500.03 Definitions; construction; applicability.—

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

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

105 Section 6. Section 500.70, Florida Statutes, is created to
106 read:

107 500.70 Tomato food safety standards; inspections;
108 penalties; nonregulatory guidance.—

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

110 (a) "Field packing" means the packing of tomatoes into
111 containers for commerce on a tomato farm, or in a tomato
112 greenhouse, without transporting the tomatoes to a packinghouse.

113 (b) "Packing" or "repacking" means the packing of tomatoes
114 into containers for commerce. The term includes the sorting or
115 separating of tomatoes into grades and sizes. The term also
116 includes field packing.

3-01062-09

20092312__

117 (c) "Producing" means the planting, growing, or cultivating
118 of tomatoes on a tomato farm or in a tomato greenhouse.

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

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

135 (b) Proximity of domestic animals and livestock to
136 tomatoes.

137 (c) Use of water, including standards for irrigation during
138 production and washing of tomatoes after harvest.

139 (d) Use of fertilizers, pesticides, and other chemicals.

140 (e) Cleaning and sanitation of containers, materials,
141 equipment, vehicles, and facilities, including storage and
142 ripening areas.

143 (f) Health, hygiene, and sanitation of employees who handle
144 tomatoes.

145 (g) Training and continuing education of a person who

3-01062-09

20092312

146 produces, harvests, packs, or repacks tomatoes in this state,
147 and the person's employees who handle tomatoes, on the minimum
148 food safety standards and the nonregulatory guidance published
149 under paragraph (4) (a).

150 (h) Labeling and recordkeeping, including standards for
151 identifying and tracing adulterated or contaminated tomatoes
152 back from the point of sale to the point of production.

153 (3) (a) The department may inspect a tomato farm, tomato
154 greenhouse, or tomato packinghouse or repacker in this state, or
155 any vehicle being used to transport or hold tomatoes in
156 commerce, for compliance with the provisions of this chapter,
157 and the rules adopted under this chapter, applicable to the
158 producing, harvesting, packing, or repacking of tomatoes, and
159 for compliance with the rules adopted under subsection (2). The
160 department shall conduct any inspections in accordance with s.
161 500.147.

162 (b) The department may impose an administrative fine not to
163 exceed \$5,000 per violation, or a written notice or warning
164 under s. 500.179, against a person who violates any provision of
165 this chapter, or any rule adopted under this chapter, applicable
166 to the producing, harvesting, packing, or repacking of tomatoes,
167 or who violates any rule adopted under subsection (2).

168 (4) (a) The department may publish nonregulatory guidance
169 for the state's tomato industry, including, but not limited to,
170 good agricultural practices and best management practices. The
171 department's nonregulatory guidance shall be based on federal
172 requirements, available scientific research, generally accepted
173 industry practice, and recommendations of food safety
174 professionals.

3-01062-09

20092312

175 (b) A person who complies with the department's minimum
176 food safety standards and nonregulatory guidance is presumed,
177 unless the department identifies noncompliance through
178 inspection, to introduce tomatoes into commerce which are safe
179 for human consumption.

180 (5) The department shall adopt rules under ss. 120.536(1)
181 and 120.54 to administer this section.

182 Section 7. Paragraph (e) of subsection (2) of section
183 570.48, Florida Statutes, is amended to read:

184 570.48 Division of Fruit and Vegetables; powers and duties;
185 records.—The duties of the Division of Fruit and Vegetables
186 include, but are not limited to:

187 (2)

188 (e) Performing tomato food safety inspections under s.
189 500.70 on tomato farms, in tomato greenhouses, and in tomato
190 packinghouses and repackers.

191 Section 8. Subsection (1) of section 604.15, Florida
192 Statutes, is amended to read:

193 604.15 Dealers in agricultural products; definitions.—For
194 the purpose of ss. 604.15-604.34, the following words and terms,
195 when used, shall be construed to mean:

196 (1) "Agricultural products" means the natural products of
197 the farm, nursery, grove, orchard, vineyard, garden, and apiary
198 (raw or manufactured); sod; ~~tropical foliage~~; horticulture; hay;
199 livestock; milk and milk products; poultry and poultry products;
200 the fruit of the saw palmetto (meaning the fruit of the *Serenoa*
201 *repens*); limes (meaning the fruit *Citrus aurantifolia*, variety
202 Persian, Tahiti, Bearss, or Florida Key limes); and any other
203 nonexempt agricultural products produced in the state, except

3-01062-09

20092312__

204 tobacco, sugarcane, tropical foliage, timber and timber
205 byproducts, forest products as defined in s. 591.17, and citrus
206 other than limes.

207 Section 9. Section 823.145, Florida Statutes, is amended to
208 read:

209 823.145 Disposal by open burning of certain materials ~~mulch~~
210 ~~plastic~~ used in agricultural operations.—Polyethylene
211 agricultural mulch plastic; wood pallets that are damaged,
212 nonsalvageable, and untreated; and packing material that cannot
213 be feasibly recycled, that are used in connection with
214 agricultural operations related to the growing, harvesting, or
215 maintenance of crops may be disposed of by open burning, if
216 their disposal by open burning does not:

217 (1) Create a ~~provided that no~~ public nuisance or any
218 condition that adversely affects ~~affecting~~ the environment or
219 the public health; or is created thereby and

220 (2) Violate ~~that~~ state or federal national ambient air
221 quality standards ~~are not violated~~.

222 Section 10. This act shall take effect July 1, 2009.