

By the Committee on Agriculture; and Senator Dean

575-02911-09

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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. 322.01, F.S.;
7 revising the term "farm tractor" for purposes of
8 drivers' licenses; amending s. 500.03, F.S.; revising
9 the term "food establishment" to include tomato
10 repackers for purposes of the Florida Food Safety Act;
11 creating s. 500.70, F.S.; defining the terms "field
12 packing," "packing" or "repacking," and "producing";
13 requiring the Department of Agriculture and Consumer
14 Services to adopt minimum food safety standards for
15 the producing, harvesting, packing, and repacking of
16 tomatoes; authorizing the department to inspect tomato
17 farms, greenhouses, and packinghouses or repackers for
18 compliance with the standards and certain provisions
19 of the Florida Food Safety Act; providing penalties;
20 authorizing the department to publish guidance for the
21 state's tomato industry; providing a presumption that
22 tomatoes introduced into commerce are safe for human
23 consumption under certain circumstances; authorizing
24 the department to adopt rules; amending s. 570.07,
25 F.S.; authorizing the department to adopt best
26 management practices for agricultural production and
27 food safety; amending s. 570.48, F.S.; revising duties
28 of the Division of Fruit and Vegetables for tomato
29 food safety inspections; amending s. 604.15, F.S.;

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

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

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

43 205.064 Farm, aquacultural, grove, horticultural,
44 floricultural, tropical piscicultural, and tropical fish farm
45 products; certain exemptions.—

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

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

55 322.01 Definitions.—As used in this chapter:

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

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

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

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

66 Section 3. Paragraph (n) of subsection (1) of section
67 500.03, Florida Statutes, is amended to read:

68 500.03 Definitions; construction; applicability.—

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

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

80 Section 4. Section 500.70, Florida Statutes, is created to
81 read:

82 500.70 Tomato food safety standards; inspections;
83 penalties; tomato good agricultural practices; tomato best
84 management practices.—

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

86 (a) "Field packing" means the packing of tomatoes on a
87 tomato farm or in a tomato greenhouse into containers for sale

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88 for human consumption without transporting the tomatoes to a
89 packinghouse.

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

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

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

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

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

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

116 (d) Use of fertilizers.

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

120 (f) Health, hygiene, and sanitation of employees who handle
121 tomatoes.

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

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

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

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

137 (4) (a) The department may adopt rules establishing tomato
138 good agricultural practices and tomato best management practices
139 for the state's tomato industry based on applicable federal
140 requirements, available scientific research, generally accepted
141 industry practices, and recommendations of food safety
142 professionals.

143 (b) A person who documents compliance with the department's
144 rules, tomato good agricultural practices, and tomato best
145 management practices is presumed to introduce tomatoes into the

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146 stream of commerce that are safe for human consumption, unless
147 the department identifies noncompliance through inspections.

148 (5) The department may adopt rules pursuant to ss.
149 120.536(1) and 120.54 to administer this section.

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

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

155 (10) To act as adviser to producers and distributors, when
156 requested, ~~and~~ to assist them in the economical and efficient
157 distribution of their agricultural products, ~~and~~ to encourage
158 cooperative effort among producers to gain economical and
159 efficient production of agricultural products, and to adopt
160 rules pursuant to ss. 120.536(1) and 120.54 establishing
161 comprehensive best management practices for agricultural
162 production and food safety.

163 Section 6. Paragraph (e) of subsection (2) of section
164 570.48, Florida Statutes, is amended to read:

165 570.48 Division of Fruit and Vegetables; powers and duties;
166 records.—The duties of the Division of Fruit and Vegetables
167 include, but are not limited to:

168 (2)

169 (e) Performing tomato food safety inspections under s.
170 500.70 on tomato farms, in tomato greenhouses, and in tomato
171 packinghouses and repackers.

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

174 604.15 Dealers in agricultural products; definitions.—For

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175 the purpose of ss. 604.15-604.34, the following words and terms,
176 when used, shall be construed to mean:

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

188 Section 8. Section 823.145, Florida Statutes, is amended to
189 read:

190 823.145 Disposal by open burning of certain materials ~~mulch~~
191 ~~plastic~~ used in agricultural operations.—Polyethylene
192 agricultural ~~mulch~~ plastic; damaged, nonsalvageable, untreated
193 wood pallets; and packing material that cannot be feasibly
194 recycled, which are used in connection with agricultural
195 operations related to the growing, harvesting, or maintenance of
196 crops, may be disposed of by open burning provided that no
197 public nuisance or any condition adversely affecting the
198 environment or the public health is created thereby and that
199 state or federal national ambient air quality standards are not
200 violated.

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