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575-00970-10

Proposed Committee Substitute by the Committee on Agriculture

A bill to be entitled

An act relating to tomato food safety; amending s. 500.03, F.S.; revising the term "food establishment" to include tomato repackers for purposes of the Florida Food Safety Act; creating s. 500.70, F.S.; defining terms; requiring minimum food safety standards for producing, harvesting, packing, and repacking tomatoes; authorizing the Department of Agriculture and Consumer Services to inspect tomato farms, greenhouses, and packinghouses or repackers; providing penalties; authorizing the department to establish good agricultural practices and best management practices for the tomato industry by rule; providing a presumption that tomatoes introduced into commerce are safe for human consumption under certain circumstances; providing exemptions; authorizing the department to adopt rules; amending s. 570.07, F.S.; authorizing the department to adopt best management practices for agricultural production and food safety; amending s. 570.48, F.S.; revising duties of the Division of Fruit and Vegetables for tomato food safety inspections; providing an effective date.

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

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

500.03 Definitions; construction; applicability.-



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

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

40 Section 2. Section 500.70, Florida Statutes, is created to  
41 read:

42 500.70 Tomato food safety standards; inspections;  
43 penalties; tomato good agricultural practices; tomato best  
44 management practices.-

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

46 (a) "Field packing" means the packing of tomatoes on a  
47 tomato farm or in a tomato greenhouse into containers for sale  
48 for human consumption without transporting the tomatoes to a  
49 packinghouse.

50 (b) "Packing" or "repacking" means the packing of tomatoes  
51 into containers for sale for human consumption. The term  
52 includes the sorting or separating of tomatoes into grades and  
53 sizes. The term also includes field packing.

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

57 (2) The department may adopt rules establishing food safety



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58 standards to safeguard the public health and promote the public  
59 welfare by protecting the consuming public from injury caused by  
60 the adulteration or the microbiological, chemical, or  
61 radiological contamination of tomatoes. The rules must be based  
62 on federal requirements, available scientific research,  
63 generally accepted industry practices, or recommendations of  
64 food safety professionals. The rules shall apply to the  
65 producing, harvesting, packing, and repacking of tomatoes for  
66 sale for human consumption by a tomato farm, tomato greenhouse,  
67 or tomato packinghouse or repacker in this state. The rules may  
68 include, but are not limited to, standards for:

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

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

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

76 (d) Use of fertilizers.

77 (e) Cleaning and sanitation of containers, materials,  
78 equipment, vehicles, and facilities, including storage and  
79 ripening areas.

80 (f) Health, hygiene, and sanitation of employees who handle  
81 tomatoes.

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

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



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87       (3) (a) The department may inspect tomato farms, tomato  
88 greenhouses, tomato packinghouses, repacking locations, or any  
89 vehicle being used to transport or hold tomatoes to ensure  
90 compliance with the applicable provisions of this chapter and  
91 the rules adopted under this chapter.

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

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

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

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

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

114       Section 3. Subsection (10) of section 570.07, Florida  
115 Statutes, is amended to read:



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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 establishing comprehensive best management practices for  
125 agricultural production and food safety.

126           Section 4. Paragraph (e) of subsection (2) of section  
127 570.48, Florida Statutes, is amended to read:

128           570.48 Division of Fruit and Vegetables; powers and duties;  
129 records.—The duties of the Division of Fruit and Vegetables  
130 include, but are not limited to:

131           (2)

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

135           Section 5. This act shall take effect July 1, 2010.