

By Senator Dean

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1 A bill to be entitled
2 An act relating to agriculture; amending s. 500.03,
3 F.S.; redefining the term "food establishment" to
4 include tomato repackers for purposes of the Florida
5 Food Safety Act; creating s. 500.70, F.S.; defining
6 the terms "field packing," "packing" or "repacking,"
7 and "producing"; requiring that the Department of
8 Agriculture and Consumer Services adopt minimum food
9 safety standards for the producing, harvesting,
10 packing, and repacking of tomatoes; authorizing the
11 department to inspect tomato farms, greenhouses, and
12 packinghouses or repackers for compliance with the
13 standards and certain provisions of the Florida Food
14 Safety Act; providing penalties; authorizing the
15 department to publish guidance for the state's tomato
16 industry; providing a presumption that tomatoes
17 introduced into commerce are safe for human
18 consumption under certain circumstances; authorizing
19 the department to adopt rules; amending s. 570.07,
20 F.S.; authorizing the department to adopt best
21 management practices for agricultural production and
22 food safety; amending s. 570.48, F.S.; revising duties
23 of the Division of Fruit and Vegetables for tomato
24 food safety inspections to conform to changes made by
25 the act; amending ss. 570.53 and 570.54, F.S.;
26 revising duties of the Division of Marketing and
27 Development and its director to conform to changes
28 made by the act; providing an effective date.
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30 Be It Enacted by the Legislature of the State of Florida:

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32 Section 1. Paragraph (n) of subsection (1) of section
33 500.03, Florida Statutes, is amended to read:

34 500.03 Definitions; construction; applicability.-

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

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

46 Section 2. Section 500.70, Florida Statutes, is created to
47 read:

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

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

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

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

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59 sizes. The term also includes field packing.

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

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

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

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

80 (c) Food-safety-related use of water for irrigation during
81 production and washing of tomatoes after harvest.

82 (d) Use of fertilizers.

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

86 (f) Health, hygiene, and sanitation of employees who handle
87 tomatoes.

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88 (g) Training and continuing education for a person who
89 produces, harvests, packs, or repacks tomatoes in this state,
90 and employees who handle tomatoes.

91 (h) Labeling and recordkeeping, including standards for
92 identifying and tracking the location of tomatoes for sale for
93 human consumption.

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

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

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

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

116 (5) The department may adopt rules pursuant to ss.

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117 120.536(1) and 120.54 to administer this section.

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

120 570.07 Department of Agriculture and Consumer Services;
121 functions, powers, and duties.—The department shall have and
122 exercise the following functions, powers, and duties:

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

131 Section 4. Paragraph (e) of subsection (2) of section
132 570.48, Florida Statutes, is amended to read:

133 570.48 Division of Fruit and Vegetables; powers and duties;
134 records.—The duties of the Division of Fruit and Vegetables
135 include, but are not limited to:

136 (2)

137 (e) Performing tomato food safety inspections under s.
138 500.70 on tomato farms, in tomato greenhouses, and in tomato
139 packinghouses and repackers.

140 Section 5. Paragraph (e) of subsection (6) of section
141 570.53, Florida Statutes, is amended to read:

142 570.53 Division of Marketing and Development; powers and
143 duties.—The powers and duties of the Division of Marketing and
144 Development include, but are not limited to:

145 (6)

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146 (e) Extending in every practicable way the distribution and
147 sale of Florida agricultural products throughout the markets of
148 the world as required of the department by ss. 500.70,
149 570.07(7), (8), (10), and (11), and 570.071 and chapters 571,
150 573, and 574.

151 Section 6. Subsection (2) of section 570.54, Florida
152 Statutes, is amended to read:

153 570.54 Director; duties.—

154 (2) It shall be the duty of the director of this division
155 to supervise, direct, and coordinate the activities authorized
156 by ss. 500.70, 570.07(4), (7), (8), (10), (11), (12), (17),
157 (18), and (20), 570.071, 570.21, 534.47-534.53, and 604.15-
158 604.34 and chapters 504, 571, 573, and 574 and to exercise other
159 powers and authority as authorized by the department.

160 Section 7. This act shall take effect July 1, 2010.