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1
2 An act relating to tomato food safety; amending s.
3 500.03, F.S.; revising the term "food establishment"
4 to include tomato repackers for purposes of the
5 Florida Food Safety Act; creating s. 500.70, F.S.;
6 defining terms; requiring minimum food safety
7 standards for producing, harvesting, packing, and
8 repacking tomatoes; authorizing the Department of
9 Agriculture and Consumer Services to inspect tomato
10 farms, greenhouses, and packinghouses or repackers;
11 providing penalties; authorizing the department to
12 establish good agricultural practices and best
13 management practices for the tomato industry by rule;
14 providing a presumption that tomatoes introduced into
15 commerce are safe for human consumption under certain
16 circumstances; providing exemptions; authorizing the
17 department to adopt rules; amending s. 570.07, F.S.;
18 authorizing the department to adopt best management
19 practices for agricultural production and food safety;
20 amending s. 570.48, F.S.; revising duties of the
21 Division of Fruit and Vegetables for tomato food
22 safety inspections; providing an effective date.

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

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26 Section 1. Paragraph (n) of subsection (1) of section
27 500.03, Florida Statutes, is amended to read:

28 500.03 Definitions; construction; applicability.-

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

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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
58 standards to safeguard the public health and promote the public

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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.

87 (3) (a) The department may inspect tomato farms, tomato

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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 that
109 are sold by the grower on the premises where the tomatoes are
110 grown, at a local farmers' market, at a U-pick operation, or at
111 a roadside stand if the quantity of tomatoes sold does not
112 exceed two 25-pound boxes per customer per day.

113 (6) The department may adopt rules pursuant to ss.
114 120.536(1) and 120.54 to administer this section.

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

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

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

127 Section 4. Paragraph (e) of subsection (2) of section
128 570.48, Florida Statutes, is amended to read:

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