

HB 69

2010

1 A bill to be entitled  
2 An act relating to food safety; amending s. 500.03, F.S.;  
3 revising the term "food establishment" to include tomato  
4 repackers for purposes of the Florida Food Safety Act;  
5 creating s. 500.70, F.S.; defining terms; requiring  
6 minimum food safety standards for producing, harvesting,  
7 packing, and repacking tomatoes; authorizing the  
8 Department of Agriculture and Consumer Services to inspect  
9 tomato farms, greenhouses, and packinghouses or repackers;  
10 providing penalties; authorizing the department to  
11 establish good agricultural practices and best management  
12 practices for the tomato industry by rule; providing a  
13 presumption that tomatoes introduced into commerce are  
14 safe for human consumption under certain circumstances;  
15 providing exemptions; authorizing the department to adopt  
16 rules; amending s. 570.07, F.S.; authorizing the  
17 department to adopt best management practices for  
18 agricultural production and food safety; amending s.  
19 570.48, F.S.; revising duties of the Division of Fruit and  
20 Vegetables for tomato food safety inspections; amending  
21 ss. 570.53 and 570.54, F.S.; conforming cross-references;  
22 providing an effective date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
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:

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

57        (2) The department may adopt rules establishing food  
58 safety standards to safeguard the public health and promote the  
59 public welfare by protecting the consuming public from injury  
60 caused by 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, and 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  
81 handle 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  
 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  
 93 to 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, and recommendations of food safety  
 102 professionals.

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

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

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:

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  
 130 duties; records.--The duties of the Division of Fruit and  
 131 Vegetables 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. Paragraph (e) of subsection (6) of section  
 137 570.53, Florida Statutes, is amended to read:

138           570.53 Division of Marketing and Development; powers and  
 139 duties.--The powers and duties of the Division of Marketing and  
 140 Development include, but are not limited to:

141 (6)  
 142 (e) Extending in every practicable way the distribution  
 143 and sale of Florida agricultural products throughout the markets  
 144 of the world as required of the department by s. ~~ss.~~ 570.07(7),  
 145 (8), (10), and (11) ~~and 570.071~~ and chapters 571, 573, and 574.

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

148 570.54 Director; duties.--

149 (2) It shall be the duty of the director of this division  
 150 to supervise, direct, and coordinate the activities authorized  
 151 by ss. 570.07(4), (7), (8), (10), (11), (12), (17), (18), and  
 152 (20), ~~570.071~~, 570.21, 534.47-534.53, and 604.15-604.34 and  
 153 chapters 504, 571, 573, and 574 and to exercise other powers and  
 154 authority as authorized by the department.

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