

1 A bill to be entitled
 2 An act relating to tomato food safety; amending s. 500.03,
 3 F.S.; revising the term "food establishment" to include
 4 tomato repackers for purposes of the Florida Food Safety
 5 Act; 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, packinghouses, and repacking
 10 locations; providing penalties; authorizing the department
 11 to establish good agricultural practices and best
 12 management practices for the tomato industry by rule;
 13 providing a presumption that tomatoes introduced into
 14 commerce are safe for human consumption under certain
 15 circumstances; providing exemptions; authorizing the
 16 department to adopt rules; amending s. 570.07, F.S.;
 17 authorizing the department to adopt best management
 18 practices for agricultural production and food safety;
 19 amending s. 570.48, F.S.; revising duties of the Division
 20 of Fruit and Vegetables for tomato food safety
 21 inspections; providing an effective date.

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

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

27 500.03 Definitions; construction; applicability.—

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

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

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

41 500.70 Tomato food safety standards; inspections;
 42 penalties; tomato good agricultural practices; tomato best
 43 management practices.-

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

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

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

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

56 (2) The department may adopt rules establishing food

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

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

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

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

75 (d) Use of fertilizers.

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

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

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

84 (h) Labeling and recordkeeping, including standards for

85 identifying and tracing tomatoes for sale for human consumption.

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

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

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

102 (b) A person who documents compliance with the
103 department's rules, tomato good agricultural practices, and
104 tomato best management practices is presumed to introduce
105 tomatoes into the stream of commerce that are safe for human
106 consumption, unless the department identifies noncompliance
107 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,
110 at a local farmers' market, at a U-pick operation, or at a
111 roadside stand, if the quantity of tomatoes sold does not exceed
112 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:

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. This act shall take effect July 1, 2010.