

By the Committees on Criminal Justice; Transportation; and
Agriculture; and Senator Norman

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1 A bill to be entitled
2 An act relating to the Department of Agriculture and
3 Consumer Services; amending s. 163.3162, F.S.;
4 defining the term "governmental entity"; prohibiting
5 certain governmental entities from charging stormwater
6 management assessments or fees on certain bona fide
7 farm operations except under certain circumstances;
8 providing for applicability; amending s. 206.41, F.S.;
9 revising the definition of the term "agricultural and
10 aquacultural purposes" for purposes of the required
11 refund of state taxes imposed on motor fuel used for
12 such purposes; requiring that the portion of fuel
13 sales tax collected from a county sheriff's office be
14 returned to the sheriff's office to offset the ongoing
15 fuel costs; authorizing a sheriff's office that is
16 licensed as a local government user to take a credit
17 on the monthly diesel fuel tax return under prescribed
18 conditions; amending s. 206.625, F.S.; requiring that
19 the portion of the county fuel tax paid by a county
20 sheriff's office be returned to offset ongoing fuel
21 costs; amending s. 316.515, F.S.; revising the Florida
22 Uniform Traffic Control Law to authorize the use of
23 citrus harvesting equipment and citrus fruit loaders
24 to transport certain agricultural products and to
25 authorize the use of certain motor vehicles to
26 transport citrus; amending s. 493.6120, F.S.;
27 providing that a person who engages in any activity
28 for which ch. 493, F.S., requires a license, but who
29 acts without having a license, commits a misdemeanor

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30 of the first degree; providing that such person
31 commits a felony of the third degree for a second or
32 subsequent offense of engaging in activities without a
33 license; authorizing the Department of Agriculture and
34 Consumer Services to impose a civil penalty not to
35 exceed a specified amount; providing that penalties do
36 not apply if the person engaged in unlicensed activity
37 within 90 days after the expiration date of the
38 person's license; providing that a person who, while
39 impersonating a security officer, private
40 investigator, recovery agent, or other person required
41 to have a license under ch. 493, F.S., knowingly and
42 intentionally forces another person to assist the
43 impersonator in an activity within the scope of duty
44 of a professional licensed under ch. 493, F.S.,
45 commits a felony of the third degree; providing that a
46 person who impersonates a security officer or other
47 designated officer during the commission of a felony
48 commits a felony of the second degree; providing that
49 a person who impersonates a security officer or other
50 designated officer during the commission of a felony
51 that results in death or serious bodily injury to
52 another human being commits a felony of the first
53 degree; authorizing a licensed security officer or a
54 licensed security agency manager to detain a person on
55 the premises of a critical infrastructure facility in
56 certain circumstances; requiring the security officer
57 to notify the law enforcement agency as soon as
58 possible; requiring that custody of any person

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59 temporarily detained be immediately transferred to the
60 responding law enforcement officer; providing for an
61 exception to the immediate transfer; providing that
62 the responsibilities of the security officer are
63 limited to specified locations; prohibiting a security
64 officer from detaining a person longer than is
65 reasonably necessary; authorizing the security officer
66 to search the person detained under certain
67 circumstances; defining the term "critical
68 infrastructure facility"; providing identification
69 requirements for certain licensed security officers;
70 amending s. 570.07, F.S.; revising the powers and
71 duties of the Department of Agriculture and Consumer
72 Services to enforce laws and rules relating to the use
73 of commercial stock feeds; amending s. 580.036, F.S.;
74 authorizing the department to adopt rules establishing
75 certain standards for regulating commercial feed or
76 feedstuff; requiring the department to consult with
77 the Commercial Feed Technical Council in the
78 development of such rules; providing an effective
79 date.

80
81 Be It Enacted by the Legislature of the State of Florida:

82
83 Section 1. Paragraph (d) is added to subsection (2) of
84 section 163.3162, Florida Statutes, and paragraphs (b), (c), and
85 (i) of subsection (3) of that section are amended to read:

86 163.3162 Agricultural Lands and Practices.—

87 (2) DEFINITIONS.—As used in this section, the term:

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88 (d) "Governmental entity" has the same meaning as provided
89 in s. 164.1031.

90 (3) DUPLICATION OF REGULATION.—Except as otherwise provided
91 in this section and s. 487.051(2), and notwithstanding any other
92 law, including any provision of chapter 125 or this chapter:

93 (b) A governmental entity ~~county~~ may not charge an
94 assessment or fee for stormwater management on a bona fide farm
95 operation on land classified as agricultural land pursuant to s.
96 193.461, if the farm operation has a National Pollutant
97 Discharge Elimination System permit, environmental resource
98 permit, or works-of-the-district permit or implements best
99 management practices adopted as rules under chapter 120 by the
100 Department of Environmental Protection, the Department of
101 Agriculture and Consumer Services, or a water management
102 district as part of a statewide or regional program.

103 (c) For each governmental entity ~~county~~ that, before March
104 1, 2009, adopted a stormwater utility ordinance or resolution,
105 adopted an ordinance or resolution establishing a municipal
106 services benefit unit, or adopted a resolution stating the
107 governmental entity's ~~county's~~ intent to use the uniform method
108 of collection pursuant to s. 197.3632 for such stormwater
109 ordinances, the governmental entity ~~county~~ may continue to
110 charge an assessment or fee for stormwater management on a bona
111 fide farm operation on land classified as agricultural pursuant
112 to s. 193.461, if the ordinance or resolution provides credits
113 against the assessment or fee on a bona fide farm operation for
114 the water quality or flood control benefit of:

115 1. The implementation of best management practices adopted
116 as rules under chapter 120 by the Department of Environmental

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117 Protection, the Department of Agriculture and Consumer Services,
118 or a water management district as part of a statewide or
119 regional program;

120 2. The stormwater quality and quantity measures required as
121 part of a National Pollutant Discharge Elimination System
122 permit, environmental resource permit, or works-of-the-district
123 permit; or

124 3. The implementation of best management practices or
125 alternative measures which the landowner demonstrates to the
126 governmental entity ~~county~~ to be of equivalent or greater
127 stormwater benefit than those provided by implementation of best
128 management practices adopted as rules under chapter 120 by the
129 Department of Environmental Protection, the Department of
130 Agriculture and Consumer Services, or a water management
131 district as part of a statewide or regional program, or
132 stormwater quality and quantity measures required as part of a
133 National Pollutant Discharge Elimination System permit,
134 environmental resource permit, or works-of-the-district permit.

135 (i) The provisions of this subsection that limit a
136 governmental entity's ~~county's~~ authority to adopt or enforce any
137 ordinance, regulation, rule, or policy, or to charge any
138 assessment or fee for stormwater management, apply only to a
139 bona fide farm operation as described in this subsection.

140 Section 2. Paragraph (c) of subsection (4) of section
141 206.41, Florida Statutes, is amended, and paragraph (f) is added
142 to that subsection, to read:

143 206.41 State taxes imposed on motor fuel.—

144 (4)

145 (c)1. Any person who uses any motor fuel for agricultural,

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146 aquacultural, commercial fishing, or commercial aviation
147 purposes on which fuel the tax imposed by paragraph (1) (e),
148 paragraph (1) (f), or paragraph (1) (g) has been paid is entitled
149 to a refund of such tax.

150 2. For the purposes of this paragraph, "agricultural and
151 aquacultural purposes" means motor fuel used in any tractor,
152 vehicle, or other farm equipment which is used exclusively on a
153 farm or for processing farm products on the farm, and no part of
154 which fuel is used in any vehicle or equipment driven or
155 operated upon the public highways of this state. This
156 restriction does not apply to the movement of a farm vehicle, ~~or~~
157 farm equipment, citrus harvesting equipment, or citrus fruit
158 loaders between farms. The transporting of bees by water and the
159 operating of equipment used in the apiary of a beekeeper shall
160 be also deemed an agricultural purpose.

161 3. For the purposes of this paragraph, "commercial fishing
162 and aquacultural purposes" means motor fuel used in the
163 operation of boats, vessels, or equipment used exclusively for
164 the taking of fish, crayfish, oysters, shrimp, or sponges from
165 salt or fresh waters under the jurisdiction of the state for
166 resale to the public, and no part of which fuel is used in any
167 vehicle or equipment driven or operated upon the highways of
168 this state; however, the term may in no way be construed to
169 include fuel used for sport or pleasure fishing.

170 4. For the purposes of this paragraph, "commercial aviation
171 purposes" means motor fuel used in the operation of aviation
172 ground support vehicles or equipment, no part of which fuel is
173 used in any vehicle or equipment driven or operated upon the
174 public highways of this state.

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175 (f) The portion of the tax imposed by paragraph (1) (g)
176 which results from the collection of fuel sales tax paid by a
177 county sheriff's office for fuel used in motor vehicles operated
178 by the sheriff's office shall be returned to the sheriff's
179 office. The sheriff's office shall use the proceeds to offset
180 ongoing fuel costs. A sheriff's office, if licensed as a local
181 government user, may take a credit on the monthly diesel fuel
182 tax return not to exceed the tax imposed under paragraphs (1) (b)
183 and (g) on those gallons which would otherwise be eligible for
184 refund.

185 Section 3. Subsection (3) is added to section 206.625,
186 Florida Statutes, to read:

187 206.625 Return of tax to municipalities, counties, and
188 school districts.—

189 (3) Those portions of the county fuel tax imposed by s.
190 206.41(1) (b) which result from the collection of the taxes paid
191 by a county sheriff's office for fuel used in motor vehicles
192 operated by the sheriff's office shall be returned to the
193 sheriff's office. The sheriff's office shall use the proceeds to
194 offset ongoing fuel costs.

195 Section 4. Paragraph (a) of subsection (5) of section
196 316.515, Florida Statutes, is amended to read:

197 316.515 Maximum width, height, length.—

198 (5) IMPLEMENTS OF HUSBANDRY AND FARM EQUIPMENT;
199 AGRICULTURAL TRAILERS; FORESTRY EQUIPMENT; SAFETY REQUIREMENTS.—

200 (a) Notwithstanding any other provisions of law, straight
201 trucks, agricultural tractors, citrus harvesting equipment,
202 citrus fruit loaders, and cotton module movers, not exceeding 50
203 feet in length, or any combination of up to and including three

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204 implements of husbandry, including the towing power unit, and
205 any single agricultural trailer with a load thereon or any
206 agricultural implements attached to a towing power unit, or a
207 self-propelled agricultural implement or an agricultural
208 tractor, is authorized for the purpose of transporting peanuts,
209 grains, soybeans, citrus, cotton, hay, straw, or other
210 perishable farm products from their point of production to the
211 first point of change of custody or of long-term storage, and
212 for the purpose of returning to such point of production, or for
213 the purpose of moving such tractors, movers, and implements from
214 one point of agricultural production to another, by a person
215 engaged in the production of any such product or custom hauler,
216 if such vehicle or combination of vehicles otherwise complies
217 with this section. The Department of Transportation may issue
218 overlength permits for cotton module movers greater than 50 feet
219 but not more than 55 feet in overall length. Such vehicles shall
220 be operated in accordance with all safety requirements
221 prescribed by law and rules of the Department of Transportation.

222 Section 5. Section 493.6120, Florida Statutes, is amended
223 to read:

224 493.6120 Violations; penalty.—

225 (1) (a) Except as provided in paragraph (c), a person who
226 engages in any activity for which this chapter requires a
227 license and who does not hold the required license commits a
228 misdemeanor of the first degree, punishable as provided in s.
229 775.082 or s. 775.083.

230 (b) A second or subsequent violation of paragraph (a) is a
231 felony of the third degree, punishable as provided in s.
232 775.082, s. 775.083, or s. 775.084, and the department may seek

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233 the imposition of a civil penalty not to exceed \$10,000.

234 (c) Paragraph (a) does not apply if the person engages in
235 unlicensed activity within 90 days after the date of the
236 expiration of his or her license.

237 (2) (a) A person who, while impersonating a security
238 officer, private investigator, recovery agent, or other person
239 required to have a license under this chapter, knowingly and
240 intentionally forces another person to assist the impersonator
241 in an activity within the scope of duty of a professional
242 licensed under this chapter commits a felony of the third
243 degree, punishable as provided in s. 775.082, s. 775.083, or s.
244 775.084.

245 (b) A person who violates paragraph (a) during the course
246 of committing a felony commits a felony of the second degree,
247 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

248 (c) A person who violates paragraph (a) during the course
249 of committing a felony that results in death or serious bodily
250 injury to another human being commits a felony of the first
251 degree, punishable as provided in s. 775.082, s. 775.083, or s.
252 775.084.

253 (3) ~~(1)~~ A ~~Any~~ person who violates any provision of this
254 chapter, except s. 493.6405, subsection (1), or subsection (2),
255 commits a misdemeanor of the first degree, punishable as
256 provided in s. 775.082 or s. 775.083.

257 (4) ~~(2)~~ A ~~Any~~ person who is convicted of any violation of
258 this chapter ~~is shall~~ not ~~be~~ eligible for licensure for a period
259 of 5 years.

260 (5) ~~(3)~~ A ~~Any~~ person who violates or disregards any cease
261 and desist order issued by the department commits a misdemeanor

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262 of the first degree, punishable as provided in s. 775.082 or s.
263 775.083. In addition, the department may seek the imposition of
264 a civil penalty not to exceed \$5,000.

265 ~~(6)-(4)~~ A Any person who was an owner, officer, partner, or
266 manager of a licensed agency at the time of any activity that is
267 the basis for revocation of the agency or branch office license
268 and who knew or should have known of the activity, shall have
269 his or her personal licenses or approval suspended for 3 years
270 and may not have any financial interest in or be employed in any
271 capacity by a licensed agency during the period of suspension.

272 Section 6. Protecting critical infrastructure facilities.-

273 (1) A licensed security officer who possesses a valid Class
274 "G" license, or a licensed security agency manager who possesses
275 a valid Class "G" license, who is on duty, in uniform, providing
276 security services on the premises of a critical infrastructure
277 facility, and who has probable cause to believe that a person
278 has committed or is committing a crime against the client, or
279 the client's patron, of the licensed security officer or the
280 licensed security agency manager, may temporarily detain the
281 person for the purpose of ascertaining his or her identity and
282 the circumstances of the activity that is the basis for the
283 temporary detention. The security officer or security agency
284 manager may detain the person in a reasonable manner until the
285 responding law enforcement officer arrives at the premises of
286 the client and is in the presence of the detainee.

287 (2) When temporarily detaining a person, the licensed
288 security officer or security agency manager shall notify the
289 appropriate law enforcement agency as soon as reasonably
290 possible. Temporary detention of a person by a licensed security

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291 officer or security agency manager must be done solely for the
292 purpose of detaining the person before the arrival of a law
293 enforcement officer. Custody of any person being temporarily
294 detained shall be immediately transferred to the responding law
295 enforcement officer.

296 (3) A licensed security officer or security agency manager
297 may not detain a person under this section after the arrival of
298 a law enforcement officer unless the law enforcement officer
299 requests the security officer or security agency manager to
300 continue detaining the person. The responsibilities of the
301 licensed security officer or security agency manager do not
302 extend beyond the place where the person was first detained or
303 in the immediate vicinity.

304 (4) A person may not be temporarily detained under this
305 section longer than is reasonably necessary to effect the
306 purposes of this section.

307 (5) If a licensed security officer or security agency
308 manager, while detaining a person under this section, observes
309 that the person temporarily detained is armed with a firearm, a
310 concealed weapon, or a destructive device that poses a threat to
311 the safety of the security officer or security agency manager,
312 or any person for whom the security officer or security agency
313 manager is responsible for providing protection, or if the
314 detainee admits to having a weapon in his or her possession, the
315 security officer or security agency manager may conduct a search
316 of the person and his or her belongings only to the extent
317 necessary for the purpose of disclosing the presence of a
318 weapon. If the search reveals such a weapon, the weapon shall be
319 seized and transferred to the responding law enforcement

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320 officer.

321 (6) As used in this section, the term "critical
322 infrastructure facility" means any one of the following, if it
323 employs measures such as fences, barriers, or guard posts that
324 are designed to exclude unauthorized persons and is determined
325 by a state or federal authority to be so vital to the state that
326 the incapacity or destruction of the facility would have a
327 debilitating impact on security, state economic stability, state
328 public health or safety, or any combination of those matters:

329 (a) A chemical manufacturing facility;

330 (b) A refinery;

331 (c) An electrical power plant as defined in s. 403.031,
332 Florida Statutes, including a substation, switching station,
333 electrical control center, or electric transmission or
334 distribution facility;

335 (d) A water intake structure, water treatment facility,
336 wastewater treatment plant, or pump station;

337 (e) A natural gas transmission compressor station;

338 (f) A liquid natural gas terminal or storage facility;

339 (g) A telecommunications central switching office;

340 (h) A deepwater port or railroad switching yard;

341 (i) A gas processing plant, including a plant used in the
342 processing, treatment, or fractionation of natural gas; or

343 (j) A public transportation facility as defined in s.
344 343.62, Florida Statutes.

345 (7) A Class "D" or Class "MB" licensee shall perform duties
346 regulated under this section in a uniform that bears at least
347 one patch or emblem visible at all times clearly identifying the
348 employing agency.

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349 Section 7. Paragraph (c) of subsection (16) of section
350 570.07, Florida Statutes, is amended to read:

351 570.07 Department of Agriculture and Consumer Services;
352 functions, powers, and duties.—The department shall have and
353 exercise the following functions, powers, and duties:

354 (16) To enforce the state laws and rules relating to:

355 (c) Registration, labeling, inspection, sale, use,
356 composition, formulation, wholesale and retail distribution, and
357 analysis of commercial stock feeds and registration, labeling,
358 inspection, and analysis of commercial fertilizers;

359
360 In order to ensure uniform health and safety standards, the
361 adoption of standards and fines in the subject areas of
362 paragraphs (a)-(n) is expressly preempted to the state and the
363 department. Any local government enforcing the subject areas of
364 paragraphs (a)-(n) must use the standards and fines set forth in
365 the pertinent statutes or any rules adopted by the department
366 pursuant to those statutes.

367 Section 8. Paragraph (g) is added to subsection (2) of
368 section 580.036, Florida Statutes, to read:

369 580.036 Powers and duties.—

370 (2) The department is authorized to adopt rules pursuant to
371 ss. 120.536(1) and 120.54 to enforce the provisions of this
372 chapter. These rules shall be consistent with the rules and
373 standards of the United States Food and Drug Administration and
374 the United States Department of Agriculture, when applicable,
375 and shall include:

376 (g) Establishing standards for the sale, use, and
377 distribution of commercial feed or feedstuff to ensure usage

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378 that is consistent with animal health, safety, and welfare and,
379 to the extent that meat, poultry, and other animal products may
380 be affected by commercial feed or feedstuff, with the safety of
381 these products for human consumption. Such standards, if
382 adopted, must be developed in consultation with the Commercial
383 Feed Technical Council created under s. 580.151.

384 Section 9. This act shall take effect July 1, 2012.