

1 A bill to be entitled
2 An act relating to agriculture; amending s. 163.3162,
3 F.S.; defining the term "governmental entity";
4 prohibiting certain governmental entities from
5 charging stormwater management assessments or fees on
6 certain bona fide farm operations except under certain
7 circumstances; providing for applicability; conforming
8 provisions; amending s. 479.11, F.S.; conforming
9 provisions; amending s. 570.07, F.S.; revising the
10 powers and duties of the Department of Agricultural
11 and Consumer Services to enforce laws and rules
12 relating to the use of commercial stock feeds;
13 amending s. 580.036, F.S.; authorizing the department
14 to adopt rules establishing certain standards for
15 regulating commercial feed or feedstuff; requiring the
16 department to consult with the Commercial Feed
17 Technical Council in the development of such rules;
18 amending s. 586.02, F.S.; defining the term
19 "apiculture" for purposes of the Florida Honey
20 Certification and Honeybee Law; conforming provisions;
21 creating s. 586.055, F.S.; authorizing apiaries to be
22 located on certain lands; amending s. 586.10, F.S.;
23 providing for preemption to the state of authority to
24 regulate, inspect, and permit managed honeybee
25 colonies; providing that certain local government
26 ordinances are superseded; revising the powers and
27 duties of the Department of Agriculture and Consumer
28 Services relating to honey certification and

29 | honeybees; requiring the department to adopt rules
30 | and, before adopting certain rules, consult with local
31 | governments and other affected stakeholders; amending
32 | s. 599.004, F.S.; revising qualifications for a
33 | certified Florida Farm Winery; reenacting s.
34 | 561.24(5), F.S., relating to limitations on the
35 | issuance of wine distributor licenses and exporter
36 | registrations, to incorporate changes made by the act
37 | to s. 599.004, F.S., in a reference thereto; amending
38 | s. 604.50, F.S.; defining the term "farm sign";
39 | providing an exemption from the Florida Building Code
40 | for farm signs; prohibiting farm signs located on
41 | public roads from violating certain standards;
42 | limiting the authority of local governments to enforce
43 | certain requirements with respect to farm signs;
44 | amending s. 823.14, F.S.; revising definitions
45 | relating to the Florida Right to Farm Act; limiting
46 | the conditions under which apiculture or the placement
47 | of apiaries may be deemed public or private nuisances;
48 | limiting the authority of local governments to
49 | regulate apiculture and the placement of apiaries on
50 | agricultural land; reenacting ss. 163.3163(3)(b),
51 | 193.461(5), 403.9337(4), 570.961(4), and
52 | 812.015(1)(g), F.S., relating to agricultural lands
53 | and practices, the Agricultural Land Acknowledgement
54 | Act, the classification and tax assessment of
55 | agricultural lands, an exemption from certain
56 | provisions related to the Model Ordinance for Florida-

57 Friendly Fertilizer Use on Urban Landscapes,
 58 provisions related to the promotion of agritourism,
 59 and penalties for retail or farm theft, respectively,
 60 to incorporate amendments made by the act to s.
 61 823.14, F.S., in references thereto; providing an
 62 effective date.

63
 64 Be It Enacted by the Legislature of the State of Florida:

65
 66 Section 1. Subsection (2) and paragraphs (b), (c), and (i)
 67 of subsection (3) of section 163.3162, Florida Statutes, are
 68 amended to read:

69 163.3162 Agricultural Lands and Practices.—

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

71 (a) "Farm" has the same meaning ~~is~~ as provided ~~defined~~ in
 72 s. 823.14.

73 (b) "Farm operation" has the same meaning ~~is~~ as provided
 74 ~~defined~~ in s. 823.14.

75 (c) "Farm product" means any plant, as defined in s.
 76 581.011, or animal useful to humans and includes, but is not
 77 limited to, any product derived therefrom.

78 (d) "Governmental entity" has the same meaning as provided
 79 in s. 164.1031. The term does not include a water control
 80 district established under chapter 298 or a special district
 81 created by special act for water management purposes.

82 (3) DUPLICATION OF REGULATION.—Except as otherwise
 83 provided in this section and s. 487.051(2), and notwithstanding

84 any other law, including any provision of chapter 125 or this
 85 chapter:

86 (b) A governmental entity ~~county~~ may not charge an
 87 assessment or fee for stormwater management on a bona fide farm
 88 operation on land classified as agricultural land pursuant to s.
 89 193.461, if the farm operation has a National Pollutant
 90 Discharge Elimination System permit, environmental resource
 91 permit, or works-of-the-district permit or implements best
 92 management practices adopted as rules under chapter 120 by the
 93 Department of Environmental Protection, the Department of
 94 Agriculture and Consumer Services, or a water management
 95 district as part of a statewide or regional program.

96 (c) For each governmental entity ~~county~~ that, before March
 97 1, 2009, adopted a stormwater utility ordinance or resolution,
 98 adopted an ordinance or resolution establishing a municipal
 99 services benefit unit, or adopted a resolution stating the
 100 governmental entity's ~~county's~~ intent to use the uniform method
 101 of collection pursuant to s. 197.3632 for such stormwater
 102 ordinances, the governmental entity ~~county~~ may continue to
 103 charge an assessment or fee for stormwater management on a bona
 104 fide farm operation on land classified as agricultural pursuant
 105 to s. 193.461, if the ordinance or resolution provides credits
 106 against the assessment or fee on a bona fide farm operation for
 107 the water quality or flood control benefit of:

108 1. The implementation of best management practices adopted
 109 as rules under chapter 120 by the Department of Environmental
 110 Protection, the Department of Agriculture and Consumer Services,

111 or a water management district as part of a statewide or
 112 regional program;

113 2. The stormwater quality and quantity measures required
 114 as part of a National Pollutant Discharge Elimination System
 115 permit, environmental resource permit, or works-of-the-district
 116 permit; or

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

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

133 Section 2. Subsection (5) of section 479.11, Florida
 134 Statutes, is amended to read:

135 479.11 Specified signs prohibited.—No sign shall be
 136 erected, used, operated, or maintained:

137 (5) (a) Which displays intermittent lights not embodied in
 138 the sign, or any rotating or flashing light within 100 feet of

139 the outside boundary of the right-of-way of any highway on the
 140 State Highway System, interstate highway system, or federal-aid
 141 primary highway system or which is illuminated in such a manner
 142 so as to cause glare or to impair the vision of motorists or
 143 otherwise distract motorists so as to interfere with the
 144 motorists' ability to safely operate their vehicles.

145 (b) If the sign is on the premises of an establishment as
 146 provided in s. 479.16(1), the local government authority with
 147 jurisdiction over the location of the sign shall enforce the
 148 provisions of this section as provided in chapter 162 and this
 149 section.

150 Section 3. Paragraph (c) of subsection (16) of section
 151 570.07, Florida Statutes, is amended to read:

152 570.07 Department of Agriculture and Consumer Services;
 153 functions, powers, and duties.—The department shall have and
 154 exercise the following functions, powers, and duties:

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

156 (c) Registration, labeling, inspection, sale, use,
 157 composition, formulation, wholesale and retail distribution, and
 158 analysis of commercial stock feeds and registration, labeling,
 159 inspection, and analysis of commercial fertilizers;

160
 161 In order to ensure uniform health and safety standards, the
 162 adoption of standards and fines in the subject areas of
 163 paragraphs (a)-(n) is expressly preempted to the state and the
 164 department. Any local government enforcing the subject areas of
 165 paragraphs (a)-(n) must use the standards and fines set forth in

166 the pertinent statutes or any rules adopted by the department
 167 pursuant to those statutes.

168 Section 4. Paragraph (g) is added to subsection (2) of
 169 section 580.036, Florida Statutes, to read:

170 580.036 Powers and duties.—

171 (2) The department is authorized to adopt rules pursuant
 172 to ss. 120.536(1) and 120.54 to enforce the provisions of this
 173 chapter. These rules shall be consistent with the rules and
 174 standards of the United States Food and Drug Administration and
 175 the United States Department of Agriculture, when applicable,
 176 and shall include:

177 (g) Establishing standards for the sale, use, and
 178 distribution of commercial feed or feedstuff to ensure usage
 179 that is consistent with animal safety and wellbeing and, to the
 180 extent that meat, poultry, and other animal products for human
 181 consumption may be affected by commercial feed or feedstuff, to
 182 ensure that these products are safe for human consumption. Such
 183 standards, if adopted, must be developed in consultation with
 184 the Commercial Feed Technical Council created under s. 580.151.

185 Section 5. Subsections (2) through (14) of section 586.02,
 186 Florida Statutes, are renumbered as subsections (3) through
 187 (15), respectively, and a new subsection (2) is added to that
 188 section to read:

189 586.02 Definitions.—As used in this chapter:

190 (2) "Apiculture" means the raising, caring for, and
 191 breeding of honeybees.

192 Section 6. Section 586.055, Florida Statutes, is created
 193 to read:

194 586.055 Location of apiaries.—An apiary may be located on
 195 land classified as agricultural under s. 193.461 or on land that
 196 is integral to a beekeeping operation.

197 Section 7. Section 586.10, Florida Statutes, is amended to
 198 read:

199 586.10 Powers and duties of department; preemption of
 200 local government ordinances.—

201 (1) The authority to regulate, inspect, and permit managed
 202 honeybee colonies and to adopt rules on the placement and
 203 location of registered inspected managed honeybee colonies is
 204 preempted to the state through the department and supersedes any
 205 related ordinance adopted by a county, municipality, or
 206 political subdivision thereof.

207 (2) The department shall ~~have the powers and duties to:~~

208 (a) ~~(1)~~ Administer and enforce the provisions of this
 209 chapter.

210 (b) ~~(2)~~ Adopt ~~Promulgate~~ rules necessary to enforce the
 211 ~~enforcement of~~ this chapter.—

212 ~~(3) Promulgate~~ rules relating to standard grades for honey
 213 and other honeybee products, and, after consultation with local
 214 governments and other affected stakeholders, rules to administer
 215 this section.

216 (3) The department may:

217 (a) ~~(4)~~ Enter upon any public or private premises ~~premise~~
 218 or carrier during regular business hours for the purpose of
 219 inspection, quarantine, destruction, or treatment of honeybees,
 220 used beekeeping equipment, unwanted races of honeybees, or
 221 regulated articles.

222 (b) ~~(5)~~ Declare a honeybee pest or unwanted race of
 223 honeybees to be a nuisance to the beekeeping industry as well as
 224 any honeybee or other ~~article~~ infested or infected article
 225 ~~therewith or~~ that is ~~has been~~ exposed to infestation or
 226 infection in a manner believed likely to communicate the
 227 infection or infestation.

228 (c) ~~(6)~~ Declare a quarantine against any area, place, or
 229 political unit within this state or other states, territories,
 230 or foreign countries, or portion thereof, in reference to
 231 honeybee pests or unwanted races of honeybees and prohibit the
 232 movement within this state from other states, territories, or
 233 foreign countries of all honeybees, honeybee products, used
 234 beekeeping equipment, or other articles from such quarantined
 235 places or areas which are likely to carry honeybee pests or
 236 unwanted races of honeybees if the quarantine is determined,
 237 after due investigation, to be necessary in order to protect
 238 this state's beekeeping industry, honeybees, and the public. In
 239 such cases, the quarantine may be made absolute or rules may be
 240 adopted prescribing the method and manner under which the
 241 prohibited articles may be moved into or within, sold in, or
 242 otherwise disposed of in this state.

243 (d) ~~(7)~~ Enter into cooperative arrangements with any
 244 person, municipality, county, or other department of this state
 245 or any agency, officer, or authority of other states or the
 246 Federal ~~United States~~ Government, including the United States
 247 Department of Agriculture, for inspection of honeybees, honeybee
 248 pests, or unwanted races of honeybees and products thereof and
 249 the control or eradication of honeybee pests and unwanted races

250 of honeybees, and contribute a share of the expenses incurred
 251 under such arrangements.

252 (e)~~(8)~~ Investigate ~~Carry on investigations of~~ methods of
 253 control, eradication, and prevention of dissemination of
 254 honeybee pests or unwanted races of honeybees.

255 (f)~~(9)~~ Inspect or cause to be inspected all apiaries in
 256 the state at such intervals as it may deem best and to keep a
 257 complete, accurate, and current list of all inspected apiaries
 258 to include the:

259 1.~~(a)~~ Name of the apiary.

260 2.~~(b)~~ Name of the owner of the apiary.

261 3.~~(c)~~ Mailing address of the apiary owner.

262 4.~~(d)~~ Location of the apiary.

263 5.~~(e)~~ Number of hives in the apiary.

264 6.~~(f)~~ Pest problems associated with the apiary.

265 7.~~(g)~~ Brands used by beekeepers where applicable.

266 (g)~~(10)~~ Collect or accept from other agencies or
 267 individuals specimens of arthropods, nematodes, fungi, bacteria,
 268 or other organisms for identification.

269 (h)~~(11)~~ Confiscate, destroy, or make use of abandoned
 270 beehives or beekeeping equipment.

271 (i)~~(12)~~ Require the identification of ownership of
 272 apiaries.

273 (j)~~(13)~~ Enter into a compliance agreement with any person
 274 engaged in purchasing, assembling, exchanging, processing,
 275 utilizing, treating, or moving beekeeping equipment or
 276 honeybees.

277 (k)~~(14)~~ Make and issue to beekeepers certificates of

278 registration and inspection, following proper inspection and
 279 certification of their honeybee colonies.

280 (l) (15) Revoke or suspend a beekeeper's or honeybee
 281 product processor's certificate of inspection or use of a
 282 certificate or permit issued by the department if the department
 283 determines that the a beekeeper or honeybee product processor is
 284 selling or offering for sale or is distributing or offering to
 285 distribute honeybees, honeybee products, or beekeeping equipment
 286 in violation of this chapter or rules adopted under this
 287 chapter, or has aided or abetted in such ~~the~~ violation, ~~the~~
 288 ~~department may revoke or suspend her or his certificate of~~
 289 ~~inspection or the use of any certificate or permit issued by the~~
 290 ~~department.~~

291 (m) (16) ~~The department may~~ Refuse the certification of any
 292 honeybees, honeybee products, or beekeeping equipment if ~~when~~ it
 293 is determined that an unwanted race of honeybees exists, or
 294 honeybee pests exist on honeybees, honeybee products, or
 295 beekeeping equipment, or that the condition of the apiary
 296 inhibits a thorough and efficient inspection by the department.

297 (n) (17) ~~The department is authorized to~~ Conduct,
 298 supervise, or cause the fumigation, destruction, or treatment of
 299 honeybees, including unwanted races of honeybees, honeybee
 300 products, and used beekeeping equipment or other articles
 301 infested or infected by honeybee pests or unwanted races of
 302 honeybees or so exposed to infection or infestation that it is
 303 reasonably believed that infection or infestation could exist.

304 (o) (18) ~~The department may~~ Require the removal from this
 305 state of any honeybees or beekeeping equipment that is ~~which~~ has

306 ~~been~~ brought into the state in violation of this chapter or the
 307 rules adopted under this chapter.

308 Section 8. Paragraph (a) of subsection (1) of section
 309 599.004, Florida Statutes, is amended to read:

310 599.004 Florida Farm Winery Program; registration; logo;
 311 fees.—

312 (1) The Florida Farm Winery Program is established within
 313 the Department of Agriculture and Consumer Services. Under this
 314 program, a winery may qualify as a tourist attraction only if it
 315 is registered with and certified by the department as a Florida
 316 Farm Winery. A winery may not claim to be certified unless it
 317 has received written approval from the department.

318 (a) To qualify as a certified Florida Farm Winery, a
 319 winery must ~~shall meet the following standards:~~

320 1. Produce or sell less than 250,000 gallons of wine
 321 annually.

322 2. Maintain a minimum of 5 ~~10~~ acres of owned or managed
 323 land vineyards in Florida which produces commodities used in the
 324 production of wine.

325 3. Be open to the public for tours, tastings, and sales at
 326 least 30 hours each week.

327 4. Make annual application to the department for
 328 recognition as a Florida Farm Winery, on forms provided by the
 329 department.

330 5. Pay an annual application and registration fee of \$100.

331 Section 9. For the purpose of incorporating the amendment
 332 made by this act to section 599.004, Florida Statutes, in a

333 reference thereto, subsection (5) of section 561.24, Florida
334 Statutes, is reenacted to read:

335 561.24 Licensing manufacturers as distributors or
336 registered exporters prohibited; procedure for issuance and
337 renewal of distributors' licenses and exporters' registrations.-

338 (5) Notwithstanding any of the provisions of the foregoing
339 subsections, any corporation which holds a license as a
340 distributor on June 3, 1947, shall be entitled to a renewal
341 thereof, provided such corporation complies with all of the
342 provisions of the Beverage Law of Florida, as amended, and of
343 this section and establishes by satisfactory evidence to the
344 division that, during the 6-month period next preceding its
345 application for such renewal, of the total volume of its sales
346 of spirituous liquors, in either dollars or quantity, not more
347 than 40 percent of such spirituous liquors sold by it, in either
348 dollars or quantity, were manufactured, rectified, or distilled
349 by any corporation with which the applicant is affiliated,
350 directly or indirectly, including any corporation which owns or
351 controls in any way any stock in the applicant corporation or
352 any corporation which is a subsidiary or affiliate of the
353 corporation so owning stock in the applicant corporation. Any
354 manufacturer of wine holding a license as a distributor on the
355 effective date of this act shall be entitled to a renewal of
356 such license notwithstanding the provisions of subsections (1)-
357 (5). This section does not apply to any winery qualifying as a
358 certified Florida Farm Winery under s. 599.004.

359 Section 10. Section 604.50, Florida Statutes, is reordered
360 and amended to read:

361 604.50 Nonresidential farm buildings; ~~and~~ farm fences;
362 farm signs.—

363 (1) Notwithstanding any provision of ~~other~~ law to the
364 contrary, any nonresidential farm building, ~~or~~ farm fence, or
365 farm sign is exempt from the Florida Building Code and any
366 county or municipal code or fee, except for code provisions
367 implementing local, state, or federal floodplain management
368 regulations. A farm sign located on a public road may not be
369 erected, used, operated, or maintained in a manner that violates
370 any of the standards provided in s. 479.11(4), (5) (a), and (6)-
371 (8).

372 (2) As used in this section, the term:

373 (a) ~~(b)~~ "Farm" has the same meaning as provided in s.
374 823.14.

375 (b) "Farm sign" means a sign erected, used, or maintained
376 on a farm by the owner or lessee of the farm which relates
377 solely to farm produce, merchandise, or services sold, produced,
378 manufactured, or furnished on the farm.

379 (c) ~~(a)~~ "Nonresidential farm building" means any temporary
380 or permanent building or support structure that is classified as
381 a nonresidential farm building on a farm under s. 553.73(9) (c)
382 or that is used primarily for agricultural purposes, is located
383 on land that is an integral part of a farm operation or is
384 classified as agricultural land under s. 193.461, and is not
385 intended to be used as a residential dwelling. The term may
386 include, but is not limited to, a barn, greenhouse, shade house,
387 farm office, storage building, or poultry house.

388 Section 11. Paragraphs (b) and (c) of subsection (3) of

389 section 823.14, Florida Statutes, are amended to read:

390 823.14 Florida Right to Farm Act.—

391 (3) DEFINITIONS.—As used in this section:

392 (b) "Farm operation" means all conditions or activities by
 393 the owner, lessee, agent, independent contractor, and supplier
 394 which occur on a farm in connection with the production of farm,
 395 honeybee, or apiculture products and includes, but is not
 396 limited to, the marketing of produce at roadside stands or farm
 397 markets; the operation of machinery and irrigation pumps; the
 398 generation of noise, odors, dust, and fumes; ground or aerial
 399 seeding and spraying; the placement and operation of an apiary;
 400 the application of chemical fertilizers, conditioners,
 401 insecticides, pesticides, and herbicides; and the employment and
 402 use of labor.

403 (c) "Farm product" means any plant, as defined in s.
 404 581.011, or animal or insect useful to humans and includes, but
 405 is not limited to, any product derived therefrom.

406 Section 12. For the purpose of incorporating the amendment
 407 made by this act to section 823.14, Florida Statutes, in a
 408 reference thereto, paragraph (b) of subsection (3) of section
 409 163.3163, Florida Statutes, is reenacted to read:

410 163.3163 Applications for development permits; disclosure
 411 and acknowledgement of contiguous sustainable agricultural
 412 land.—

413 (3) As used in this section, the term:

414 (b) "Farm operation" has the same meaning as defined in s.
 415 823.14.

416 Section 13. For the purpose of incorporating the amendment

417 made by this act to section 823.14, Florida Statutes, in a
 418 reference thereto, subsection (5) of section 193.461, Florida
 419 Statutes, is reenacted to read:

420 193.461 Agricultural lands; classification and assessment;
 421 mandated eradication or quarantine program.—

422 (5) For the purpose of this section, "agricultural
 423 purposes" includes, but is not limited to, horticulture;
 424 floriculture; viticulture; forestry; dairy; livestock; poultry;
 425 bee; pisciculture, when the land is used principally for the
 426 production of tropical fish; aquaculture; sod farming; and all
 427 forms of farm products as defined in s. 823.14(3) and farm
 428 production.

429 Section 14. For the purpose of incorporating the amendment
 430 made by this act to section 823.14, Florida Statutes, in a
 431 reference thereto, subsection (4) of section 403.9337, Florida
 432 Statutes, is reenacted to read:

433 403.9337 Model Ordinance for Florida-Friendly Fertilizer
 434 Use on Urban Landscapes.—

435 (4) This section does not apply to the use of fertilizer
 436 on farm operations as defined in s. 823.14 or on lands
 437 classified as agricultural lands pursuant to s. 193.461.

438 Section 15. For the purpose of incorporating the amendment
 439 made by this act to section 823.14, Florida Statutes, in a
 440 reference thereto, subsection (4) of section 570.961, Florida
 441 Statutes, is reenacted to read:

442 570.961 Definitions.—As used in ss. 570.96-570.962, the
 443 term:

444 (4) "Farm operation" has the same meaning as defined in s.

445 823.14.

446 Section 16. For the purpose of incorporating the amendment
447 made by this act to section 823.14, Florida Statutes, in a
448 reference thereto, paragraph (g) of subsection (1) of section
449 812.015, Florida Statutes, is reenacted to read:

450 812.015 Retail and farm theft; transit fare evasion;
451 mandatory fine; alternative punishment; detention and arrest;
452 exemption from liability for false arrest; resisting arrest;
453 penalties.—

454 (1) As used in this section:

455 (g) "Farm theft" means the unlawful taking possession of
456 any items that are grown or produced on land owned, rented, or
457 leased by another person. The term includes the unlawful taking
458 possession of equipment and associated materials used to grow or
459 produce farm products as defined in s. 823.14(3)(c).

460 Section 17. This act shall take effect July 1, 2012.