

By Senator Simpson

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1 A bill to be entitled
2 An act relating to agriculture; amending s. 193.461,
3 F.S.; providing that participation in a water
4 retention program may be considered a nonincome-
5 producing use under certain circumstances; providing a
6 date by which such classification is repealed;
7 amending s. 212.02, F.S.; revising and providing
8 definitions; amending s. 212.0501, F.S.; providing
9 that certain uses of diesel fuel by a qualified
10 agricultural producer are exempt from the sales and
11 use tax imposed under ch. 212, F.S.; deleting a
12 requirement that a purchaser or lessee sign an
13 exclusive use certificate; amending s. 212.08, F.S.;
14 providing that the use of certain farm equipment by a
15 qualified agricultural producer is exempt from the
16 sales and use tax imposed under ch. 212, F.S.;
17 deleting a requirement that a purchaser, renter, or
18 lessee sign an exclusive use certificate; providing
19 that certain items in agricultural use, certain nets,
20 gas or electricity used for agricultural purposes, and
21 growth enhancers or performance enhancers used by a
22 qualified agricultural producer for cattle are exempt
23 from the sales and use tax imposed under ch. 212,
24 F.S.; deleting a requirement that a purchaser or
25 lessee of certain items in agricultural use or certain
26 nets sign an exclusive use certificate; providing that
27 a qualified agricultural producer is exempt from sales
28 and use tax imposed on feeds for poultry, ostriches,
29 and livestock; providing that certain products are

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30 exempt for use in home vegetable gardens; requiring a
31 purchaser or lessee to sign an exclusive use
32 certificate; creating s. 212.0802, F.S.; providing
33 criteria for a qualified agricultural producer;
34 requiring a qualified agricultural producer to apply
35 for an agricultural sales and use tax exemption
36 certificate from the Department of Revenue; requiring
37 the department to issue a wallet-sized card containing
38 the information provided on the tax exemption
39 certificate; authorizing the department to adopt
40 rules, establish an oversight board, direct staff, and
41 charge annual fees; providing criteria for the
42 department to determine eligibility for designation as
43 a qualified agricultural producer; providing that
44 possession by a seller, lessor, or other dealer of a
45 written exemption certification by the purchaser,
46 renter, or lessee relieves the seller, lessor, or
47 dealer from the responsibility of collecting tax on
48 nontaxable amounts; providing an effective date.

49
50 Be It Enacted by the Legislature of the State of Florida:

51
52 Section 1. Subsection (7) of section 193.461, Florida
53 Statutes, is amended to read:

54 193.461 Agricultural lands; classification and assessment;
55 mandated eradication or quarantine program.—

56 (7) (a) Lands classified for assessment purposes as
57 agricultural lands which are taken out of production by a ~~any~~
58 state or federal eradication or quarantine program shall

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59 continue to be classified as agricultural lands for the duration
60 of such program or successor programs. Lands under these
61 programs which are converted to fallow~~r~~ or otherwise nonincome-
62 producing uses shall continue to be classified as agricultural
63 lands and shall be assessed at a de minimis value of up to no
64 ~~more than~~ \$50 per acre, on a single year assessment methodology;
65 however, lands converted to other income-producing agricultural
66 uses permissible under such programs shall be assessed pursuant
67 to this section. Land under a mandated eradication or quarantine
68 program which is diverted from an agricultural to a
69 nonagricultural use shall be assessed under s. 193.011.

70 (b) Participation in a water retention program sponsored by
71 a water management district which requires flooding of land that
72 is assessed at a de minimis value under paragraph (a) is
73 considered a nonincome-producing use if payments to the owner
74 under the program do not exceed the reasonable expenses
75 associated with program participation. This paragraph expires on
76 December 31, 2020.

77 Section 2. Subsections (30) and (32) of section 212.02,
78 Florida Statutes, are amended, and subsection (35) is added to
79 that section, to read:

80 212.02 Definitions.—The following terms and phrases when
81 used in this chapter have the meanings ascribed to them in this
82 section, except where the context clearly indicates a different
83 meaning:

84 (30) "Power farm equipment" means moving or stationary
85 equipment involved in agricultural production which ~~that~~
86 contains within itself the means for its own propulsion or power
87 and moving or stationary equipment that is dependent upon an

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88 external power source to perform its functions.

89 (32) "Agricultural production" means the production of
90 plants and animals useful to humans, including the preparation,
91 planting, cultivating, irrigating, ~~or~~ harvesting, transporting,
92 or storing of these products or any other practices necessary to
93 accomplish production through the first point of sale ~~harvest~~
94 ~~phase~~, and includes aquaculture, horticulture, floriculture,
95 viticulture, forestry, dairy, livestock, poultry, bees, and any
96 and all forms of farm products and farm production.

97 (35) "Qualified agricultural producer" means a producer of
98 agricultural commodities that meets one of the criteria
99 specified in s. 212.0802(1).

100 Section 3. Subsections (3) and (5) of section 212.0501,
101 Florida Statutes, are amended to read:

102 212.0501 Tax on diesel fuel for business purposes;
103 purchase, storage, and use.—

104 (3) For purposes of this section, "consumption, use, or
105 storage by a trade or business" does not include those uses of
106 diesel fuel specifically exempt on account of residential
107 purposes; diesel fuel used ~~or~~ in a ~~any~~ tractor, a vehicle, or
108 other equipment used by a qualified agricultural producer
109 exclusively on a farm or for processing farm products on the
110 farm, no part of which diesel fuel is used in any licensed motor
111 vehicle on the public highways of this state; or the purchase or
112 storage of diesel fuel held for resale.

113 (5) Diesel fuel upon which the fuel taxes pursuant to
114 chapter 206 have been paid is exempt from the tax imposed by
115 this chapter. Liquefied petroleum gas or other fuel used by a
116 qualified agricultural producer to heat a structure in which

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117 started pullets or broilers are raised is exempt from the tax
118 imposed by this chapter; ~~however, such exemption shall not be~~
119 ~~allowed unless the purchaser or lessee signs a certificate~~
120 ~~stating that the fuel to be exempted is for the exclusive use~~
121 ~~designated herein.~~

122 Section 4. Subsection (3), paragraphs (a), (e), and (l) of
123 subsection (5), and paragraph (d) of subsection (7) of section
124 212.08, Florida Statutes, are amended, and paragraph (kkk) is
125 added to subsection (7) of that section, to read:

126 212.08 Sales, rental, use, consumption, distribution, and
127 storage tax; specified exemptions.—The sale at retail, the
128 rental, the use, the consumption, the distribution, and the
129 storage to be used or consumed in this state of the following
130 are hereby specifically exempt from the tax imposed by this
131 chapter.

132 (3) EXEMPTIONS; CERTAIN FARM EQUIPMENT.—A qualified
133 agricultural producer is exempt from ~~There shall be no tax on~~
134 ~~the sale, rental, lease, use, consumption, or storage for use in~~
135 ~~this state of power farm equipment, irrigation equipment,~~
136 ~~repairs to farm equipment, and replacement parts for farm~~
137 equipment used exclusively on a farm or in a forest in the
138 agricultural production of crops or products ~~as~~ produced by
139 those agricultural industries included in the definition of the
140 term agriculture in s. 570.02(1), or such equipment used for
141 fire prevention and suppression work with respect to such crops
142 or products. Harvesting may not be construed to include
143 processing activities. This exemption is not forfeited if a
144 qualified agricultural producer moves ~~by moving~~ farm equipment
145 between farms or forests. ~~However, this exemption shall not be~~

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146 ~~allowed unless the purchaser, renter, or lessee signs a~~
 147 ~~certificate stating that the farm equipment is to be used~~
 148 ~~exclusively on a farm or in a forest for agricultural production~~
 149 ~~or for fire prevention and suppression, as required by this~~
 150 ~~subsection. Possession by a seller, lessor, or other dealer of a~~
 151 ~~written certification by the purchaser, renter, or lessee~~
 152 ~~certifying the purchaser's, renter's, or lessee's entitlement to~~
 153 ~~an exemption permitted by this subsection relieves the seller~~
 154 ~~from the responsibility of collecting the tax on the nontaxable~~
 155 ~~amounts, and the department shall look solely to the purchaser~~
 156 ~~for recovery of such tax if it determines that the purchaser was~~
 157 ~~not entitled to the exemption.~~

158 (5) EXEMPTIONS; ACCOUNT OF USE.—

159 (a) *Items in agricultural use and certain nets.*—A qualified
 160 agricultural producer is exempt ~~There are exempt~~ from the tax
 161 imposed by this chapter on nets designed and used exclusively by
 162 commercial fisheries; disinfectants, fertilizers, insecticides,
 163 pesticides, herbicides, fungicides, and weed killers used for
 164 application on crops or groves, including commercial nurseries
 165 ~~and home vegetable gardens~~, used in dairy barns or on poultry
 166 farms for the purpose of protecting poultry or livestock, or
 167 used directly on poultry or livestock; portable containers, or
 168 movable receptacles in which portable containers are placed,
 169 used for processing farm products; field and garden seeds,
 170 including flower seeds; nursery stock, seedlings, cuttings, or
 171 other propagative material purchased for growing stock; seeds,
 172 seedlings, cuttings, and plants used to produce food for human
 173 consumption; cloth, plastic, and other similar materials used on
 174 a farm for shade, mulch, or protection from frost or insects ~~on~~

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175 ~~a farm~~; generators used on poultry farms; and liquefied
176 petroleum gas or other fuel used to heat a structure in which
177 started pullets or broilers are raised; ~~however, such exemption~~
178 ~~shall not be allowed unless the purchaser or lessee signs a~~
179 ~~certificate stating that the item to be exempted is for the~~
180 ~~exclusive use designated herein. Also exempt are~~ and cellophane
181 wrappers, glue for tin and glass used by ~~(apiarists)~~, mailing
182 cases for honey, shipping cases, window cartons, and baling wire
183 and twine used for baling hay, when used by a qualified
184 agricultural producer ~~farmer~~ to contain, produce, or process an
185 agricultural commodity.

186 (e) *Gas or electricity used for certain agricultural*
187 *purposes.*-

188 1. A qualified agricultural producer is exempt from the tax
189 imposed by this chapter on butane gas, propane gas, natural gas,
190 and all other forms of liquefied petroleum gases ~~are exempt from~~
191 ~~the tax imposed by this chapter~~ if such gas is used in any
192 tractor, vehicle, or other farm equipment that ~~which~~ is used
193 exclusively on a farm or for processing farm products on the
194 farm. Such ~~and no part of which~~ gas may not be ~~is~~ used in any
195 vehicle or equipment driven or operated on the public highways
196 of this state; however,- this restriction does not apply to the
197 movement of farm vehicles or farm equipment between farms. The
198 transporting of bees by water and the operating of equipment
199 used in the apiary of a beekeeper is also deemed an exempt use.

200 2. Electricity used by a qualified agricultural producer
201 directly or indirectly for production, packing, or processing of
202 agricultural products on the farm~~7~~ or used directly or
203 indirectly in a packinghouse~~7~~ is exempt from the tax imposed by

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204 this chapter. As used in this subsection, the term
205 "packinghouse" means any building or structure where fruits,
206 vegetables, or meat from cattle or hogs is packed or otherwise
207 prepared for market or shipment in fresh form for wholesale
208 distribution. The exemption does not apply to electricity used
209 in buildings or structures where agricultural products are sold
210 at retail. This exemption applies only if the electricity used
211 for the exempt purposes is separately metered. If the
212 electricity is not separately metered, it is conclusively
213 presumed that some portion of the electricity is used for a
214 nonexempt purpose, and all of the electricity used for such
215 purposes is taxable.

216 (1) *Growth enhancers or performance enhancers for cattle.*—A
217 qualified agricultural producer is ~~There is~~ exempt from the tax
218 imposed by this chapter on the sale of performance-enhancing or
219 growth-enhancing products for cattle.

220 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
221 entity by this chapter do not inure to any transaction that is
222 otherwise taxable under this chapter when payment is made by a
223 representative or employee of the entity by any means,
224 including, but not limited to, cash, check, or credit card, even
225 when that representative or employee is subsequently reimbursed
226 by the entity. In addition, exemptions provided to any entity by
227 this subsection do not inure to any transaction that is
228 otherwise taxable under this chapter unless the entity has
229 obtained a sales tax exemption certificate from the department
230 or the entity obtains or provides other documentation as
231 required by the department. Eligible purchases or leases made
232 with such a certificate must be in strict compliance with this

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233 subsection and departmental rules, and any person who makes an
234 exempt purchase with a certificate that is not in strict
235 compliance with this subsection and the rules is liable for and
236 shall pay the tax. The department may adopt rules to administer
237 this subsection.

238 (d) Feeds.—For a qualified agricultural producer, feeds for
239 poultry, ostriches, and livestock, including racehorses and
240 dairy cows, are exempt.

241 (kkk) Home vegetable gardens.—Disinfectants, fertilizers,
242 insecticides, pesticides, herbicides, fungicides, and weed
243 killers used for application on home vegetable gardens are
244 exempt; however, such exemption is not allowed unless the
245 purchaser or lessee signs a certificate stating that the item to
246 be exempted is for the exclusive use designated herein.

247 Section 5. Section 212.0802, Florida Statutes, is created
248 to read:

249 212.0802 Qualified agricultural producer certification.—

250 (1) A qualified agricultural producer is a person or entity
251 that meets one of the following criteria:

252 (a) The person or entity is the owner or lessee of
253 agricultural land or other real property from which at least
254 \$2,500 of agricultural commodities are produced and sold during
255 the year.

256 (b) The person or entity is in the business of providing
257 for-hire custom agricultural services, including, but not
258 limited to, plowing, planting, harvesting, growing, animal
259 husbandry or the maintenance of livestock, raising or
260 substantially modifying agricultural commodities, or the
261 maintenance of agricultural land from which at least \$2,500 of

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262 such services are provided during the year.

263 (c) The person or entity is the owner of land assessed as
264 agricultural property under s. 193.461.

265 (d) The person or entity is in the business of producing
266 long-term agricultural commodities, including, but not limited
267 to, timber, pulpwood, citrus, and horticultural or other
268 multiyear agricultural or farm products, from which there might
269 not be annual income. The applicant must demonstrate that
270 sufficient volumes of such multiyear agricultural products will
271 be produced to generate at least \$2,500 in sales annually in the
272 future.

273 (e) The person or entity is actively engaged in the
274 production of agricultural commodities and has created, or will
275 have created, sufficient volumes to generate at least \$2,500 in
276 annual sales. The applicant must establish such production to
277 the satisfaction of the Department of Revenue.

278 (2) A qualified agricultural producer that meets the
279 criteria under subsection (1) may apply to the Department of
280 Revenue to request an agricultural sales and use tax exemption
281 certificate. Such certificate must contain an exemption number.
282 To facilitate the use of the exemption certificate, the
283 Department of Revenue shall also issue a wallet-sized card
284 containing the same information provided on the exemption
285 certificate.

286 (3) The Department of Revenue may adopt rules governing the
287 issuance of agricultural exemption certificates and the
288 administration of this section. The Department of Revenue may
289 establish an oversight board, direct staff, and charge annual
290 fees of at least \$15 but not more than \$25 per year.

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291 (4) The Department of Revenue may use any of the following
292 criteria as a tool to determine eligibility under this section:

293 (a) Business activity on IRS Schedule F (Form 1040), Profit
294 or Loss From Farming.

295 (b) Farm rental activity on IRS Form 4835, Farm Rental
296 Income and Expenses, or Schedule E (Form 1040), Supplemental
297 Income and Loss.

298 (c) Proof of ownership of land assessed as agricultural
299 property under s. 193.461.

300 (5) Possession by a seller, lessor, or other dealer of a
301 written certification by the purchaser, renter, or lessee
302 certifying the purchaser's, renter's, or lessee's entitlement to
303 an exemption permitted by this section relieves the seller from
304 the responsibility of collecting the tax on the nontaxable
305 amounts, and the department shall look solely to the purchaser
306 for recovery of such tax if it determines that the purchaser was
307 not entitled to the exemption.

308 Section 6. This act shall take effect July 1, 2014.