

By Senator Norman

12-00162-12

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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; amending  
8           s. 206.41, F.S.; revising the definition of the term  
9           "agricultural and aquacultural purposes" for purposes  
10          of the required refund of state taxes imposed on motor  
11          fuel used for such purposes; amending s. 316.515,  
12          F.S.; revising the Florida Uniform Traffic Control Law  
13          to authorize the use of citrus harvesting equipment  
14          and citrus fruit loaders to transport certain  
15          agricultural products and to authorize the use of  
16          certain motor vehicles to transport citrus; amending  
17          s. 570.07, F.S.; revising the powers and duties of the  
18          Department of Agricultural and Consumer Services to  
19          enforce laws and rules relating to the use of  
20          commercial stock feeds; amending s. 580.036, F.S.;  
21          authorizing the department to adopt rules establishing  
22          certain standards for regulating commercial feed or  
23          feedstuff; requiring the department to consult with  
24          the Commercial Feed Technical Council in the  
25          development of such rules; creating s. 810.127, F.S.;  
26          defining terms; prohibiting the knowing entry upon and  
27          unauthorized recording of sounds or images of a farm  
28          or farm operation; providing for applicability;  
29          providing a penalty; providing effective dates.

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31 Be It Enacted by the Legislature of the State of Florida:  
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33 Section 1. Paragraph (d) is added to subsection (2) of  
34 section 163.3162, Florida Statutes, and paragraphs (b), (c), and  
35 (i) of subsection (3) of that section are amended to read:

36 163.3162 Agricultural Lands and Practices.—

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

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

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

43 (b) A governmental entity ~~county~~ may not charge an  
44 assessment or fee for stormwater management on a bona fide farm  
45 operation on land classified as agricultural land pursuant to s.  
46 193.461, if the farm operation has a National Pollutant  
47 Discharge Elimination System permit, environmental resource  
48 permit, or works-of-the-district permit or implements best  
49 management practices adopted as rules under chapter 120 by the  
50 Department of Environmental Protection, the Department of  
51 Agriculture and Consumer Services, or a water management  
52 district as part of a statewide or regional program.

53 (c) For each governmental entity ~~county~~ that, before March  
54 1, 2009, adopted a stormwater utility ordinance or resolution,  
55 adopted an ordinance or resolution establishing a municipal  
56 services benefit unit, or adopted a resolution stating the  
57 governmental entity's ~~county's~~ intent to use the uniform method  
58 of collection pursuant to s. 197.3632 for such stormwater

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59 ordinances, the governmental entity ~~county~~ may continue to  
60 charge an assessment or fee for stormwater management on a bona  
61 fide farm operation on land classified as agricultural pursuant  
62 to s. 193.461, if the ordinance or resolution provides credits  
63 against the assessment or fee on a bona fide farm operation for  
64 the water quality or flood control benefit of:

65 1. The implementation of best management practices adopted  
66 as rules under chapter 120 by the Department of Environmental  
67 Protection, the Department of Agriculture and Consumer Services,  
68 or a water management district as part of a statewide or  
69 regional program;

70 2. The stormwater quality and quantity measures required as  
71 part of a National Pollutant Discharge Elimination System  
72 permit, environmental resource permit, or works-of-the-district  
73 permit; or

74 3. The implementation of best management practices or  
75 alternative measures which the landowner demonstrates to the  
76 governmental entity ~~county~~ to be of equivalent or greater  
77 stormwater benefit than those provided by implementation of best  
78 management practices adopted as rules under chapter 120 by the  
79 Department of Environmental Protection, the Department of  
80 Agriculture and Consumer Services, or a water management  
81 district as part of a statewide or regional program, or  
82 stormwater quality and quantity measures required as part of a  
83 National Pollutant Discharge Elimination System permit,  
84 environmental resource permit, or works-of-the-district permit.

85 (i) The provisions of this subsection that limit a  
86 governmental entity's ~~county's~~ authority to adopt or enforce any  
87 ordinance, regulation, rule, or policy, or to charge any

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88 assessment or fee for stormwater management, apply only to a  
89 bona fide farm operation as described in this subsection.

90 Section 2. Paragraph (c) of subsection (4) of section  
91 206.41, Florida Statutes, is amended to read:

92 206.41 State taxes imposed on motor fuel.—

93 (4)

94 (c)1. Any person who uses any motor fuel for agricultural,  
95 aquacultural, commercial fishing, or commercial aviation  
96 purposes on which fuel the tax imposed by paragraph (1)(e),  
97 paragraph (1)(f), or paragraph (1)(g) has been paid is entitled  
98 to a refund of such tax.

99 2. For the purposes of this paragraph, "agricultural and  
100 aquacultural purposes" means motor fuel used in any tractor,  
101 vehicle, or other farm equipment which is used exclusively on a  
102 farm or for processing farm products on the farm, and no part of  
103 which fuel is used in any vehicle or equipment driven or  
104 operated upon the public highways of this state. This  
105 restriction does not apply to the movement of a farm vehicle, ~~or~~  
106 farm equipment, citrus harvesting equipment, or citrus fruit  
107 loaders between farms. The transporting of bees by water and the  
108 operating of equipment used in the apiary of a beekeeper shall  
109 be also deemed an agricultural purpose.

110 3. For the purposes of this paragraph, "commercial fishing  
111 and aquacultural purposes" means motor fuel used in the  
112 operation of boats, vessels, or equipment used exclusively for  
113 the taking of fish, crayfish, oysters, shrimp, or sponges from  
114 salt or fresh waters under the jurisdiction of the state for  
115 resale to the public, and no part of which fuel is used in any  
116 vehicle or equipment driven or operated upon the highways of

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117 this state; however, the term may in no way be construed to  
118 include fuel used for sport or pleasure fishing.

119 4. For the purposes of this paragraph, "commercial aviation  
120 purposes" means motor fuel used in the operation of aviation  
121 ground support vehicles or equipment, no part of which fuel is  
122 used in any vehicle or equipment driven or operated upon the  
123 public highways of this state.

124 Section 3. Paragraph (a) of subsection (5) of section  
125 316.515, Florida Statutes, is amended to read:

126 316.515 Maximum width, height, length.—

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

129 (a) Notwithstanding any other provisions of law, straight  
130 trucks, agricultural tractors, citrus harvesting equipment,  
131 citrus fruit loaders, and cotton module movers, not exceeding 50  
132 feet in length, or any combination of up to and including three  
133 implements of husbandry, including the towing power unit, and  
134 any single agricultural trailer with a load thereon or any  
135 agricultural implements attached to a towing power unit, or a  
136 self-propelled agricultural implement or an agricultural  
137 tractor, is authorized for the purpose of transporting peanuts,  
138 grains, soybeans, citrus, cotton, hay, straw, or other  
139 perishable farm products from their point of production to the  
140 first point of change of custody or of long-term storage, and  
141 for the purpose of returning to such point of production, or for  
142 the purpose of moving such tractors, movers, and implements from  
143 one point of agricultural production to another, by a person  
144 engaged in the production of any such product or custom hauler,  
145 if such vehicle or combination of vehicles otherwise complies

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146 with this section. The Department of Transportation may issue  
147 overlength permits for cotton module movers greater than 50 feet  
148 but not more than 55 feet in overall length. Such vehicles shall  
149 be operated in accordance with all safety requirements  
150 prescribed by law and rules of the Department of Transportation.

151 Section 4. Paragraph (c) of subsection (16) of section  
152 570.07, Florida Statutes, is amended to read:

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

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

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

161  
162 In order to ensure uniform health and safety standards, the  
163 adoption of standards and fines in the subject areas of  
164 paragraphs (a)-(n) is expressly preempted to the state and the  
165 department. Any local government enforcing the subject areas of  
166 paragraphs (a)-(n) must use the standards and fines set forth in  
167 the pertinent statutes or any rules adopted by the department  
168 pursuant to those statutes.

169 Section 5. Paragraph (g) is added to subsection (2) of  
170 section 580.036, Florida Statutes, to read:

171 580.036 Powers and duties.—

172 (2) The department is authorized to adopt rules pursuant to  
173 ss. 120.536(1) and 120.54 to enforce the provisions of this  
174 chapter. These rules shall be consistent with the rules and

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175 standards of the United States Food and Drug Administration and  
176 the United States Department of Agriculture, when applicable,  
177 and shall include:

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

186 Section 6. Effective October 1, 2012, section 810.127,  
187 Florida Statutes, is created to read:

188 810.127 Unauthorized entry and use of recording device on  
189 farm; penalties.-

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

191 (a) "Audio or video recording function" means the  
192 capability of a camera, an audio or video recorder, or any other  
193 device to record, store, transfer, broadcast, or transmit sound  
194 or images by means of any technology now known or later  
195 developed, regardless of the recording media or format,  
196 including, but not limited to, photographs or film; magnetic  
197 storage, including audio cassette tapes, videocassette tapes,  
198 hard disk drives, and floppy disk drives; flash memory,  
199 including memory cards, flash drives, and solid state drives;  
200 optical disc storage media, including compact discs, digital  
201 versatile discs, and blu-ray discs; streaming media; and any  
202 other electrical, magnetic, optical, or form of data storage.

203 (b) "Farm" has the same meaning as provided in s. 823.14.

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204 For purposes of this section, the term also includes any other  
205 land upon which a legal farm operation is being conducted and  
206 upon which farm products are being produced.

207 (c) "Farm operation" has the same meaning as provided in s.  
208 823.14.

209 (d) "Farm product" has the same meaning as provided in s.  
210 823.14.

211 (2) A person may not knowingly enter upon any nonpublic  
212 area of a farm and, without the prior written consent of the  
213 farm's owner or the owner's authorized representative, operate  
214 the audio or video recording function of any device with the  
215 intent of recording sound or images of the farm or farm  
216 operation.

217 (3) This section does not apply to:

218 (a) An employee or agent of the Department of Agriculture  
219 and Consumer Services acting under s. 570.15.

220 (b) An employee or agent of the Department of Business and  
221 Professional Regulation acting under chapter 450.

222 (c) A law enforcement officer conducting a lawful  
223 inspection or investigation.

224 (d) Any other government employee conducting official  
225 regulatory business.

226 (e) An engineer or his or her agent or employee acting  
227 under s. 471.027.

228 (f) A land surveyor and mapper or his or her subordinate,  
229 agent, or employee, as necessary for conducting any activity  
230 under chapter 472.

231 (g) A person acting on behalf of an insurer for inspection,  
232 underwriting, or claims purposes.



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233       (4) A person who violates this section commits a  
234 misdemeanor of the first degree, punishable as provided in s.  
235 775.082 or s. 775.083.

236       Section 7. Except as otherwise expressly provided in this  
237 act, this act shall take effect July 1, 2012.