

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Agriculture Committee

BILL: CS/SB 2312

INTRODUCER: Agriculture Committee and Senator Dean

SUBJECT: Agriculture

DATE: March 17, 2009 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Akhavein	Poole	AG	Fav/CS
2.			TR	
3.			FT	
4.			GA	
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This committee substitute addresses the following issues related to agriculture. It:

- Expands eligibility for exemption from a local business tax receipt for persons who sell farm, aquacultural, grove, horticultural, floricultural, tropical piscicultural, or tropical fish farm products, or products manufactured therefrom.
- Revises the term “farm tractor” for purposes of drivers’ licenses.
- Authorizes the Department of Agriculture and Consumer Services (department) to adopt rules to establish food safety standards for tomato production, harvesting and repacking.
- Authorizes the department to inspect tomato farms, tomato greenhouses, tomato packinghouses, repacking locations, or any vehicle being used to transport or hold tomatoes.
- Authorizes the department to impose an administrative fine or issue a written notice or warning for violations of tomato food safety standards.
- Revises the definition of “agricultural products” to make tropical foliage exempt from regulation under provisions relating to dealers in agricultural products.
- Expands the materials used in agricultural operations that may be disposed of by open burning.

This committee substitute amends sections 205.064, 322.01, 500.03, 570.07, 570.48, 604.15, and 823.145 of the Florida Statutes.

This committee substitute creates section 500.70 of the Florida Statutes.

II. Present Situation:

Eligibility for Exemption From a Local Business Tax Receipt

Section 205.022, F.S., defines “person” to mean any individual, firm, partnership, joint adventure, syndicate, or other group or combination acting as a unit, association, corporation, estate, trust, business trust, trustee, executor, administrator, receiver, or other fiduciary, and includes the plural as well as the singular. Section 205.064, F.S., provides an exemption from local business taxes to “natural persons” engaged in the selling of certain agricultural products. Currently, some cities and counties are interpreting the term “natural person” to exclude corporations, partnerships and other non-natural persons for exemption purposes and some are not.

Farm Workers Drivers’ Licenses

The Department of Highway Safety and Motor Vehicles exempts from obtaining a driver’s license any person while driving or operating any road machine, farm tractor, or implement of husbandry temporarily operated or moved on a highway. Currently, a farm tractor is defined in statute as a motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry. The committee substitute clarifies that a farm tractor may be an actual tractor, ATV, or other utility vehicle.

Food Safety of Tomatoes and Best Management Practices

The 2007 Legislature amended s. 570.07, F.S., to allow the Department of Agriculture and Consumer Services to use any of its trained personnel to perform inspections and to establish and adopt requirements for enhancing food safety of tomatoes. It changed the definition of “food establishment” to include tomato packinghouses. It also authorized the Division of Fruit and Vegetables to perform food safety inspections, under the Tomato Good Agricultural Practices inspection program, on tomato farms, in tomato greenhouses, and in tomato packing houses and repackers. The division has worked with the Florida tomato industry in creating and implementing good agricultural practices guidelines and standards and conducts an annual audit and inspection program to ensure compliance.

Dealers in Agricultural Products

The Agricultural License and Bond Law covers business transitions for growers selling to companies with a business presence in Florida. In the 2005 Legislative Session, the definition of the term “agricultural products” was amended to include tropical foliage as a non-exempt agricultural product produced in Florida. Hence, tropical foliage is included in the definition of agricultural products and those who sell tropical foliage are subject to the requirement that dealers be licensed and bonded. This change has not been proven to be beneficial to the foliage industry and it has requested a reenactment of the exemption.

Disposal of Agricultural Waste

Polyethylene plastic has long been used in numerous forms by the agricultural industry.

Polyethylene mulch plastic is commonly disposed of by burning. The Department of Environmental Protection does not require a permit for burning certain solid wastes if the activity does not create a public nuisance or any condition adversely affecting the environment or public health and does not violate other state or local laws, ordinances, rules, regulations or, orders. Section 403.707(2)(e), F.S., provides an exemption for disposal of solid waste resulting from normal farm operations, including polyethylene agricultural plastic, damaged, nonsalvageable, untreated wood pallets, and packing material that cannot be feasibly recycled.

III. Effect of Proposed Changes:

Section 1 amends s. 205.064, F.S., to expand eligibility for exemption from a local business tax receipt (occupational license) for persons who sell farm, aquacultural, grove, horticultural, floricultural, tropical piscicultural, or tropical fish farm products or products manufactured therefrom.

Section 2 amends s. 322.01, F.S., to revise the definition of “farm tractor.”

Section 3 amends s. 500.3, F.S., to revise the term “food establishment” to include tomato repackers for purpose of the Florida Food Safety Act.

Section 4 creates s. 500.70, to define the terms “field packing,” “packing” or “repacking,” and “producing.” It authorizes the Department of Agriculture and Consumer Services (department) to perform food safety inspections under the Tomato Good Agricultural Practices (T-GAP) inspection program, on tomato farms, in tomato green houses, in tomato packing houses and repackers, and in vehicles being used to transport or hold tomatoes. It authorizes the department to adopt minimum food safety standards for the producing, harvesting, packing, and repacking of tomatoes. The department is authorized to impose an administrative fine not to exceed \$5,000 per violation, or issue a written notice or warning against any person who violates any provision of this section. The department may adopt rules establishing tomato good agricultural practices and best management practices for the state’s tomato industry based on applicable federal requirements, available scientific research, generally accepted industry practices, and recommendations of food safety professionals. This section provides a presumption of compliance for tomato producers who have acted in good faith and have followed the department’s minimum food safety standards. The department is allowed to adopt rules to administer this section.

Section 5 amends s. 570.07, F.S., to authorize the department to adopt best management practices for agricultural production and food safety.

Section 6 amends s. 570.48, F.S., to revise duties of the Division of Fruit and Vegetables for tomato food safety inspections.

Section 7 amends s. 604.15, F.S., to revise the definition of “agricultural products” to make tropical foliage exempt from regulation under provisions relating to dealers in agricultural products.

Section 8 amends s. 823.145, F.S., to expand the materials used in agricultural operations that may be disposed of by open burning, if it does not create a public nuisance that adversely affect the environment or the public health. It also must not violate state or federal national ambient air quality standards.

Section 10 provides that this act shall take effect July 1, 2009.

Other Potential Implications:

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate provision may apply because the committee substitute prohibits local cities and counties from imposing a local business tax (occupational license) on persons engaged in the selling of farm, aquacultural, grove, horticultural, floricultural, tropical piscicultural, or topical fish farm products, or products manufactured therefrom. The Revenue Estimating Conference has not yet determined if the fiscal impact is significant or if an exemption to the mandate provision applies.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Florida law exempts any natural person from obtaining a local business tax receipt (occupational license) to sell agricultural products that were grown in the state by a natural person. While the statutes provide a definition for "person," no definition is provided for "natural person." Hence the statute is interpreted differently in different counties in regards to the exemption. The committee substitute strikes the word "natural" to exempt any "person" from obtaining a local business tax receipt.

The committee substitute provides relief to tropical foliage dealers from the agricultural dealers provisions of chapter 604, F.S., including the fees required by s. 604.19, F.S.

B. Private Sector Impact:

The committee substitute provides relief to tropical foliage dealers from the agricultural dealers provisions of chapter 604, F.S., including the fees required by s. 604.19, F.S. It will decrease the protection provided by the agricultural bond and create a financial

vulnerability to those growers who will no longer have the protection of ensuring they are paid for their product.

C. Government Sector Impact:

The Department of Agriculture and Consumer Services reports that returning tropical foliage to exempt status from the provisions of the License and bond law will result in a decrease in the revenue generated to support the License and Bond program and will have an adverse effect on the program’s ability to achieve self-sufficiency.

	FY 09-10	FY 10-11	FY 11-12
REVENUES			
Recurring:			
Division of Marketing (No license fee for tropical foliage products.)	(\$23,750)	(\$24,441)	(\$25,175)
Division of Fruits and Vegetables (Registration for farms @ \$100 x 100 farms.)	\$10,000	\$10,000	\$10,000
Non-Recurring:	0	0	0
EXPENDITURES			
Recurring:			
Division of Fruits and Vegetables (Associated costs to process registrations, maintain data bases and compliance records for the anticipated farm registrations.)	\$10,000	\$10,000	\$10,000
Non-Recurring:	0	0	0

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Committee Substitute for Senate Bill 2312 is different from Senate Bill 2312 in that it:

- Deletes language that exempts all-terrain vehicles, utility vehicles, and golf carts from requirements of registration, payment of license taxes, and display of license plates if they are operated principally on a farm, grove, or orchard in agricultural pursuits and only incidentally on roads.
- Revises the definition of “farm tractor” to clarify that a farm tractor may be driven without obtaining a driver’s license, whether it be an actual tractor, ATV, or other utility vehicle, and may be operated incidentally on the roads of the state as transportation between the owner’s or operator’s headquarters and the farm, grove, or orchard or between one farm, grove, or orchard other another.
- Authorizes the Department of Agriculture and Consumer Services to impose an administrative fine not to exceed \$5,000 per violation, or issue a written notice or warning against any person who violates any provision of this “section,” relating to tomato food safety standards, rather than this “chapter,” relating to the Florida Food Safety Act.

B. Amendments:

None.