

By the Committees on 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; amending s. 316.515, F.S.; revising the
13 Florida Uniform Traffic Control Law to authorize the
14 use of citrus harvesting equipment and citrus fruit
15 loaders to transport certain agricultural products and
16 to authorize the use of certain motor vehicles to
17 transport citrus; amending s. 493.6120, F.S.;
18 providing that a person who engages in any activity
19 for which ch. 493, F.S., requires a license, but who
20 acts without having a license, commits a misdemeanor
21 of the first degree; providing that such person
22 commits a felony of the third degree for a second or
23 subsequent offense of engaging in activities without a
24 license; authorizing the Department of Agriculture and
25 Consumer Services to impose a civil penalty not to
26 exceed a specified amount; providing that penalties do
27 not apply if the person engaged in unlicensed activity
28 within 90 days after the expiration date of the
29 person's license; providing that a person who, while

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30 impersonating a security officer, private
31 investigator, recovery agent, or other person required
32 to have a license under ch. 493, F.S., knowingly and
33 intentionally forces another person to assist the
34 impersonator in an activity within the scope of duty
35 of a professional licensed under ch. 493, F.S.,
36 commits a felony of the third degree; providing that a
37 person who impersonates a security officer or other
38 designated officer during the commission of a felony
39 commits a felony of the second degree; providing that
40 a person who impersonates a security officer or other
41 designated officer during the commission of a felony
42 that results in death or serious bodily injury to
43 another human being commits a felony of the first
44 degree; authorizing a licensed security officer or a
45 licensed security agency manager to detain a person on
46 the premises of a critical infrastructure facility in
47 certain circumstances; requiring the security officer
48 to notify the law enforcement agency as soon as
49 possible; requiring that custody of any person
50 temporarily detained be immediately transferred to the
51 responding law enforcement officer; providing for an
52 exception to the immediate transfer; providing that
53 the responsibilities of the security officer are
54 limited to specified locations; prohibiting a security
55 officer from detaining a person longer than is
56 reasonably necessary; authorizing the security officer
57 to search the person detained under certain
58 circumstances; defining the term "critical

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59 infrastructure facility"; providing identification
60 requirements for certain licensed security officers;
61 amending s. 570.07, F.S.; revising the powers and
62 duties of the Department of Agriculture and Consumer
63 Services to enforce laws and rules relating to the use
64 of commercial stock feeds; amending s. 580.036, F.S.;
65 authorizing the department to adopt rules establishing
66 certain standards for regulating commercial feed or
67 feedstuff; requiring the department to consult with
68 the Commercial Feed Technical Council in the
69 development of such rules; providing an effective
70 date.

71
72 Be It Enacted by the Legislature of the State of Florida:

73
74 Section 1. Paragraph (d) is added to subsection (2) of
75 section 163.3162, Florida Statutes, and paragraphs (b), (c), and
76 (i) of subsection (3) of that section are amended to read:

77 163.3162 Agricultural Lands and Practices.—

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

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

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

84 (b) A governmental entity ~~county~~ may not charge an
85 assessment or fee for stormwater management on a bona fide farm
86 operation on land classified as agricultural land pursuant to s.
87 193.461, if the farm operation has a National Pollutant

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88 Discharge Elimination System permit, environmental resource
89 permit, or works-of-the-district permit or implements best
90 management practices adopted as rules under chapter 120 by the
91 Department of Environmental Protection, the Department of
92 Agriculture and Consumer Services, or a water management
93 district as part of a statewide or regional program.

94 (c) For each governmental entity ~~county~~ that, before March
95 1, 2009, adopted a stormwater utility ordinance or resolution,
96 adopted an ordinance or resolution establishing a municipal
97 services benefit unit, or adopted a resolution stating the
98 governmental entity's ~~county's~~ intent to use the uniform method
99 of collection pursuant to s. 197.3632 for such stormwater
100 ordinances, the governmental entity ~~county~~ may continue to
101 charge an assessment or fee for stormwater management on a bona
102 fide farm operation on land classified as agricultural pursuant
103 to s. 193.461, if the ordinance or resolution provides credits
104 against the assessment or fee on a bona fide farm operation for
105 the water quality or flood control benefit of:

106 1. The implementation of best management practices adopted
107 as rules under chapter 120 by the Department of Environmental
108 Protection, the Department of Agriculture and Consumer Services,
109 or a water management district as part of a statewide or
110 regional program;

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

115 3. The implementation of best management practices or
116 alternative measures which the landowner demonstrates to the

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

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

131 Section 2. Paragraph (c) of subsection (4) of section
132 206.41, Florida Statutes, is amended to read:

133 206.41 State taxes imposed on motor fuel.—

134 (4)

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

140 2. For the purposes of this paragraph, "agricultural and
141 aquacultural purposes" means motor fuel used in any tractor,
142 vehicle, or other farm equipment which is used exclusively on a
143 farm or for processing farm products on the farm, and no part of
144 which fuel is used in any vehicle or equipment driven or
145 operated upon the public highways of this state. This

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146 restriction does not apply to the movement of a farm vehicle, ~~or~~
147 farm equipment, citrus harvesting equipment, or citrus fruit
148 loaders between farms. The transporting of bees by water and the
149 operating of equipment used in the apiary of a beekeeper shall
150 be also deemed an agricultural purpose.

151 3. For the purposes of this paragraph, "commercial fishing
152 and aquacultural purposes" means motor fuel used in the
153 operation of boats, vessels, or equipment used exclusively for
154 the taking of fish, crayfish, oysters, shrimp, or sponges from
155 salt or fresh waters under the jurisdiction of the state for
156 resale to the public, and no part of which fuel is used in any
157 vehicle or equipment driven or operated upon the highways of
158 this state; however, the term may in no way be construed to
159 include fuel used for sport or pleasure fishing.

160 4. For the purposes of this paragraph, "commercial aviation
161 purposes" means motor fuel used in the operation of aviation
162 ground support vehicles or equipment, no part of which fuel is
163 used in any vehicle or equipment driven or operated upon the
164 public highways of this state.

165 Section 3. Paragraph (a) of subsection (5) of section
166 316.515, Florida Statutes, is amended to read:

167 316.515 Maximum width, height, length.—

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

170 (a) Notwithstanding any other provisions of law, straight
171 trucks, agricultural tractors, citrus harvesting equipment,
172 citrus fruit loaders, and cotton module movers, not exceeding 50
173 feet in length, or any combination of up to and including three
174 implements of husbandry, including the towing power unit, and

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175 any single agricultural trailer with a load thereon or any
176 agricultural implements attached to a towing power unit, or a
177 self-propelled agricultural implement or an agricultural
178 tractor, is authorized for the purpose of transporting peanuts,
179 grains, soybeans, citrus, cotton, hay, straw, or other
180 perishable farm products from their point of production to the
181 first point of change of custody or of long-term storage, and
182 for the purpose of returning to such point of production, or for
183 the purpose of moving such tractors, movers, and implements from
184 one point of agricultural production to another, by a person
185 engaged in the production of any such product or custom hauler,
186 if such vehicle or combination of vehicles otherwise complies
187 with this section. The Department of Transportation may issue
188 overlength permits for cotton module movers greater than 50 feet
189 but not more than 55 feet in overall length. Such vehicles shall
190 be operated in accordance with all safety requirements
191 prescribed by law and rules of the Department of Transportation.

192 Section 4. Section 493.6120, Florida Statutes, is amended
193 to read:

194 493.6120 Violations; penalty.—

195 (1) (a) Except as provided in paragraph (c), a person who
196 engages in any activity for which this chapter requires a
197 license and who does not hold the required license commits a
198 misdemeanor of the first degree, punishable as provided in s.
199 775.082 or s. 775.083.

200 (b) A second or subsequent violation of paragraph (a) is a
201 felony of the third degree, punishable as provided in s.
202 775.082, s. 775.083, or s. 775.084, and the department may seek
203 the imposition of a civil penalty not to exceed \$10,000.

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

207 (2) (a) A person who, while impersonating a security
208 officer, private investigator, recovery agent, or other person
209 required to have a license under this chapter, knowingly and
210 intentionally forces another person to assist the impersonator
211 in an activity within the scope of duty of a professional
212 licensed under this chapter commits a felony of the third
213 degree, punishable as provided in s. 775.082, s. 775.083, or s.
214 775.084.

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

218 (c) A person who violates paragraph (a) during the course
219 of committing a felony that results in death or serious bodily
220 injury to another human being commits a felony of the first
221 degree, punishable as provided in s. 775.082, s. 775.083, or s.
222 775.084.

223 (3) ~~(1)~~ A ~~Any~~ person who violates any provision of this
224 chapter, except s. 493.6405, subsection (1), or subsection (2),
225 commits a misdemeanor of the first degree, punishable as
226 provided in s. 775.082 or s. 775.083.

227 (4) ~~(2)~~ A ~~Any~~ person who is convicted of any violation of
228 this chapter ~~is shall~~ not ~~be~~ eligible for licensure for a period
229 of 5 years.

230 (5) ~~(3)~~ A ~~Any~~ person who violates or disregards any cease
231 and desist order issued by the department commits a misdemeanor
232 of the first degree, punishable as provided in s. 775.082 or s.

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233 775.083. In addition, the department may seek the imposition of
234 a civil penalty not to exceed \$5,000.

235 ~~(6)~~~~(4)~~ A ~~Any~~ person who was an owner, officer, partner, or
236 manager of a licensed agency at the time of any activity that is
237 the basis for revocation of the agency or branch office license
238 and who knew or should have known of the activity, shall have
239 his or her personal licenses or approval suspended for 3 years
240 and may not have any financial interest in or be employed in any
241 capacity by a licensed agency during the period of suspension.

242 Section 5. Protecting critical infrastructure facilities.-

243 (1) A licensed security officer who possesses a valid Class
244 "G" license, or a licensed security agency manager who possesses
245 a valid Class "G" license, who is on duty, in uniform, providing
246 security services on the premises of a critical infrastructure
247 facility, and who has probable cause to believe that a person
248 has committed or is committing a crime against the client, or
249 the client's patron, of the licensed security officer or the
250 licensed security agency manager, may temporarily detain the
251 person for the purpose of ascertaining his or her identity and
252 the circumstances of the activity that is the basis for the
253 temporary detention. The security officer or security agency
254 manager may detain the person in a reasonable manner until the
255 responding law enforcement officer arrives at the premises of
256 the client and is in the presence of the detainee.

257 (2) When temporarily detaining a person, the licensed
258 security officer or security agency manager shall notify the
259 appropriate law enforcement agency as soon as reasonably
260 possible. Temporary detention of a person by a licensed security
261 officer or security agency manager must be done solely for the

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262 purpose of detaining the person before the arrival of a law
263 enforcement officer. Custody of any person being temporarily
264 detained shall be immediately transferred to the responding law
265 enforcement officer.

266 (3) A licensed security officer or security agency manager
267 may not detain a person under this section after the arrival of
268 a law enforcement officer unless the law enforcement officer
269 requests the security officer or security agency manager to
270 continue detaining the person. The responsibilities of the
271 licensed security officer or security agency manager do not
272 extend beyond the place where the person was first detained or
273 in the immediate vicinity.

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

277 (5) If a licensed security officer or security agency
278 manager, while detaining a person under this section, observes
279 that the person temporarily detained is armed with a firearm, a
280 concealed weapon, or a destructive device that poses a threat to
281 the safety of the security officer or security agency manager,
282 or any person for whom the security officer or security agency
283 manager is responsible for providing protection, or if the
284 detainee admits to having a weapon in his or her possession, the
285 security officer or security agency manager may conduct a search
286 of the person and his or her belongings only to the extent
287 necessary for the purpose of disclosing the presence of a
288 weapon. If the search reveals such a weapon, the weapon shall be
289 seized and transferred to the responding law enforcement
290 officer.

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

299 (a) A chemical manufacturing facility;

300 (b) A refinery;

301 (c) An electrical power plant as defined in s. 403.031,
302 Florida Statutes, including a substation, switching station,
303 electrical control center, or electric transmission or
304 distribution facility;

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

307 (e) A natural gas transmission compressor station;

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

309 (g) A telecommunications central switching office;

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

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

313 (j) A public transportation facility as defined in s.
314 343.62, Florida Statutes.

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

319 Section 6. Paragraph (c) of subsection (16) of section

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320 570.07, Florida Statutes, is amended to read:

321 570.07 Department of Agriculture and Consumer Services;
322 functions, powers, and duties.—The department shall have and
323 exercise the following functions, powers, and duties:

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

325 (c) Registration, labeling, inspection, sale, use,
326 composition, formulation, wholesale and retail distribution, and
327 analysis of commercial stock feeds and registration, labeling,
328 inspection, and analysis of commercial fertilizers;

329

330 In order to ensure uniform health and safety standards, the
331 adoption of standards and fines in the subject areas of
332 paragraphs (a)-(n) is expressly preempted to the state and the
333 department. Any local government enforcing the subject areas of
334 paragraphs (a)-(n) must use the standards and fines set forth in
335 the pertinent statutes or any rules adopted by the department
336 pursuant to those statutes.

337 Section 7. Paragraph (g) is added to subsection (2) of
338 section 580.036, Florida Statutes, to read:

339 580.036 Powers and duties.—

340 (2) The department is authorized to adopt rules pursuant to
341 ss. 120.536(1) and 120.54 to enforce the provisions of this
342 chapter. These rules shall be consistent with the rules and
343 standards of the United States Food and Drug Administration and
344 the United States Department of Agriculture, when applicable,
345 and shall include:

346 (g) Establishing standards for the sale, use, and
347 distribution of commercial feed or feedstuff to ensure usage
348 that is consistent with animal health, safety, and welfare and,

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349 to the extent that meat, poultry, and other animal products may
350 be affected by commercial feed or feedstuff, with the safety of
351 these products for human consumption. Such standards, if
352 adopted, must be developed in consultation with the Commercial
353 Feed Technical Council created under s. 580.151.

354 Section 8. This act shall take effect July 1, 2012.