

By the Committees on Budget Subcommittee on Finance and Tax;
Criminal Justice; 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; requiring that the portion of fuel
13 sales tax collected from a county sheriff's office be
14 returned to the sheriff's office to offset the ongoing
15 fuel costs; authorizing a sheriff's office that is
16 licensed as a local government user to take a credit
17 on the monthly diesel fuel tax return under prescribed
18 conditions; amending s. 206.625, F.S.; requiring that
19 the portion of the county fuel tax paid by a county
20 sheriff's office be returned to offset ongoing fuel
21 costs; amending s. 316.515, F.S.; revising the Florida
22 Uniform Traffic Control Law to authorize the use of
23 citrus harvesting equipment and citrus fruit loaders
24 to transport certain agricultural products and to
25 authorize the use of certain motor vehicles to
26 transport citrus; amending s. 493.6120, F.S.;
27 providing that a person who engages in any activity
28 for which ch. 493, F.S., requires a license, but who
29 acts without having a license, commits a misdemeanor

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30 of the first degree; providing that such person
31 commits a felony of the third degree for a second or
32 subsequent offense of engaging in activities without a
33 license; authorizing the Department of Agriculture and
34 Consumer Services to impose a civil penalty not to
35 exceed a specified amount; providing that penalties do
36 not apply if the person engaged in unlicensed activity
37 within 90 days after the expiration date of the
38 person's license; providing that a person who, while
39 impersonating a security officer, private
40 investigator, recovery agent, or other person required
41 to have a license under ch. 493, F.S., knowingly and
42 intentionally forces another person to assist the
43 impersonator in an activity within the scope of duty
44 of a professional licensed under ch. 493, F.S.,
45 commits a felony of the third degree; providing that a
46 person who impersonates a security officer or other
47 designated officer during the commission of a felony
48 commits a felony of the second degree; providing that
49 a person who impersonates a security officer or other
50 designated officer during the commission of a felony
51 that results in death or serious bodily injury to
52 another human being commits a felony of the first
53 degree; authorizing a licensed security officer or a
54 licensed security agency manager to detain a person on
55 the premises of a critical infrastructure facility in
56 certain circumstances; requiring the security officer
57 to notify the law enforcement agency as soon as
58 possible; requiring that custody of any person

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59 temporarily detained be immediately transferred to the
60 responding law enforcement officer; providing for an
61 exception to the immediate transfer; providing that
62 the responsibilities of the security officer are
63 limited to specified locations; prohibiting a security
64 officer from detaining a person longer than is
65 reasonably necessary; authorizing the security officer
66 to search the person detained under certain
67 circumstances; defining the term "critical
68 infrastructure facility"; providing identification
69 requirements for certain licensed security officers;
70 amending s. 570.07, F.S.; revising the powers and
71 duties of the Department of Agriculture and Consumer
72 Services to enforce laws and rules relating to the use
73 of commercial stock feeds; amending s. 580.036, F.S.;
74 providing that the department has exclusive authority
75 over the sale and use of any commercial feed or
76 feedstuff; authorizing the department to adopt rules
77 establishing certain standards for regulating
78 commercial feed or feedstuff; requiring the department
79 to consult with the Commercial Feed Technical Council
80 in the development of such rules; providing an
81 effective date.

82
83 Be It Enacted by the Legislature of the State of Florida:

84
85 Section 1. Paragraph (d) is added to subsection (2) of
86 section 163.3162, Florida Statutes, and paragraphs (b), (c), and
87 (i) of subsection (3) of that section are amended to read:

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88 163.3162 Agricultural Lands and Practices.—

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

90 (d) "Governmental entity" has the same meaning as provided
91 in s. 164.1031. The term does not include a water control
92 district designated under chapter 298 or a special district
93 created by special act for water management purposes.

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

97 (b) A governmental entity ~~county~~ may not charge an
98 assessment or fee for stormwater management on a bona fide farm
99 operation on land classified as agricultural land pursuant to s.
100 193.461, if the farm operation has a National Pollutant
101 Discharge Elimination System permit, environmental resource
102 permit, or works-of-the-district permit or implements best
103 management practices adopted as rules under chapter 120 by the
104 Department of Environmental Protection, the Department of
105 Agriculture and Consumer Services, or a water management
106 district as part of a statewide or regional program.

107 (c) For each governmental entity ~~county~~ that, before March
108 1, 2009, adopted a stormwater utility ordinance or resolution,
109 adopted an ordinance or resolution establishing a municipal
110 services benefit unit, or adopted a resolution stating the
111 governmental entity's ~~county's~~ intent to use the uniform method
112 of collection pursuant to s. 197.3632 for such stormwater
113 ordinances, the governmental entity ~~county~~ may continue to
114 charge an assessment or fee for stormwater management on a bona
115 fide farm operation on land classified as agricultural pursuant
116 to s. 193.461, if the ordinance or resolution provides credits

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117 against the assessment or fee on a bona fide farm operation for
118 the water quality or flood control benefit of:

119 1. The implementation of best management practices adopted
120 as rules under chapter 120 by the Department of Environmental
121 Protection, the Department of Agriculture and Consumer Services,
122 or a water management district as part of a statewide or
123 regional program;

124 2. The stormwater quality and quantity measures required as
125 part of a National Pollutant Discharge Elimination System
126 permit, environmental resource permit, or works-of-the-district
127 permit; or

128 3. The implementation of best management practices or
129 alternative measures which the landowner demonstrates to the
130 governmental entity ~~county~~ to be of equivalent or greater
131 stormwater benefit than those provided by implementation of best
132 management practices adopted as rules under chapter 120 by the
133 Department of Environmental Protection, the Department of
134 Agriculture and Consumer Services, or a water management
135 district as part of a statewide or regional program, or
136 stormwater quality and quantity measures required as part of a
137 National Pollutant Discharge Elimination System permit,
138 environmental resource permit, or works-of-the-district permit.

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

144 Section 2. Paragraph (c) of subsection (4) of section
145 206.41, Florida Statutes, is amended, and paragraph (f) is added

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146 to that subsection, to read:

147 206.41 State taxes imposed on motor fuel.—

148 (4)

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

154 2. For the purposes of this paragraph, "agricultural and
155 aquacultural purposes" means motor fuel used in any tractor,
156 vehicle, or other farm equipment which is used exclusively on a
157 farm or for processing farm products on the farm, and no part of
158 which fuel is used in any vehicle or equipment driven or
159 operated upon the public highways of this state. This
160 restriction does not apply to the movement of a farm vehicle, ~~or~~
161 farm equipment, citrus harvesting equipment, or citrus fruit
162 loaders between farms. The transporting of bees by water and the
163 operating of equipment used in the apiary of a beekeeper shall
164 be also deemed an agricultural purpose.

165 3. For the purposes of this paragraph, "commercial fishing
166 and aquacultural purposes" means motor fuel used in the
167 operation of boats, vessels, or equipment used exclusively for
168 the taking of fish, crayfish, oysters, shrimp, or sponges from
169 salt or fresh waters under the jurisdiction of the state for
170 resale to the public, and no part of which fuel is used in any
171 vehicle or equipment driven or operated upon the highways of
172 this state; however, the term may in no way be construed to
173 include fuel used for sport or pleasure fishing.

174 4. For the purposes of this paragraph, "commercial aviation

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175 purposes" means motor fuel used in the operation of aviation
176 ground support vehicles or equipment, no part of which fuel is
177 used in any vehicle or equipment driven or operated upon the
178 public highways of this state.

179 (f) The portion of the tax imposed by paragraph (1)(g)
180 which results from the collection of fuel sales tax paid by a
181 county sheriff's office for fuel used in motor vehicles operated
182 by the sheriff's office shall be returned to the sheriff's
183 office. The sheriff's office shall use the proceeds to offset
184 ongoing fuel costs. A sheriff's office, if licensed as a local
185 government user, may take a credit on the monthly diesel fuel
186 tax return not to exceed the tax imposed under paragraphs (1)(b)
187 and (g) on those gallons which would otherwise be eligible for
188 refund.

189 Section 3. Subsection (3) is added to section 206.625,
190 Florida Statutes, to read:

191 206.625 Return of tax to municipalities, counties, and
192 school districts.—

193 (3) Those portions of the county fuel tax imposed by s.
194 206.41(1)(b) which result from the collection of the taxes paid
195 by a county sheriff's office for fuel used in motor vehicles
196 operated by the sheriff's office shall be returned to the
197 sheriff's office. The sheriff's office shall use the proceeds to
198 offset ongoing fuel costs.

199 Section 4. Paragraph (a) of subsection (5) of section
200 316.515, Florida Statutes, is amended to read:

201 316.515 Maximum width, height, length.—

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

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204 (a) Notwithstanding any other provisions of law, straight
205 trucks, agricultural tractors, citrus harvesting equipment,
206 citrus fruit loaders, and cotton module movers, not exceeding 50
207 feet in length, or any combination of up to and including three
208 implements of husbandry, including the towing power unit, and
209 any single agricultural trailer with a load thereon or any
210 agricultural implements attached to a towing power unit, or a
211 self-propelled agricultural implement or an agricultural
212 tractor, is authorized for the purpose of transporting peanuts,
213 grains, soybeans, citrus, cotton, hay, straw, or other
214 perishable farm products from their point of production to the
215 first point of change of custody or of long-term storage, and
216 for the purpose of returning to such point of production, or for
217 the purpose of moving such tractors, movers, and implements from
218 one point of agricultural production to another, by a person
219 engaged in the production of any such product or custom hauler,
220 if such vehicle or combination of vehicles otherwise complies
221 with this section. The Department of Transportation may issue
222 overlength permits for cotton module movers greater than 50 feet
223 but not more than 55 feet in overall length. Such vehicles shall
224 be operated in accordance with all safety requirements
225 prescribed by law and rules of the Department of Transportation.

226 Section 5. Section 493.6120, Florida Statutes, is amended
227 to read:

228 493.6120 Violations; penalty.—

229 (1) (a) Except as provided in paragraph (c), a person who
230 engages in any activity for which this chapter requires a
231 license and who does not hold the required license commits a
232 misdemeanor of the first degree, punishable as provided in s.

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233 775.082 or s. 775.083.

234 (b) A second or subsequent violation of paragraph (a) is a
235 felony of the third degree, punishable as provided in s.
236 775.082, s. 775.083, or s. 775.084, and the department may seek
237 the imposition of a civil penalty not to exceed \$10,000.

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

241 (2) (a) A person who, while impersonating a security
242 officer, private investigator, recovery agent, or other person
243 required to have a license under this chapter, knowingly and
244 intentionally forces another person to assist the impersonator
245 in an activity within the scope of duty of a professional
246 licensed under this chapter commits a felony of the third
247 degree, punishable as provided in s. 775.082, s. 775.083, or s.
248 775.084.

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

252 (c) A person who violates paragraph (a) during the course
253 of committing a felony that results in death or serious bodily
254 injury to another human being commits a felony of the first
255 degree, punishable as provided in s. 775.082, s. 775.083, or s.
256 775.084.

257 (3) ~~(1)~~ A Any person who violates any provision of this
258 chapter, except s. 493.6405, subsection (1), or subsection (2),
259 commits a misdemeanor of the first degree, punishable as
260 provided in s. 775.082 or s. 775.083.

261 (4) ~~(2)~~ A Any person who is convicted of any violation of

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262 this chapter ~~is shall~~ not be eligible for licensure for a period
263 of 5 years.

264 ~~(5)(3)~~ A ~~Any~~ person who violates or disregards any cease
265 and desist order issued by the department commits a misdemeanor
266 of the first degree, punishable as provided in s. 775.082 or s.
267 775.083. In addition, the department may seek the imposition of
268 a civil penalty not to exceed \$5,000.

269 ~~(6)(4)~~ A ~~Any~~ person who was an owner, officer, partner, or
270 manager of a licensed agency at the time of any activity that is
271 the basis for revocation of the agency or branch office license
272 and who knew or should have known of the activity, shall have
273 his or her personal licenses or approval suspended for 3 years
274 and may not have any financial interest in or be employed in any
275 capacity by a licensed agency during the period of suspension.

276 Section 6. Protecting critical infrastructure facilities.-

277 (1) A licensed security officer who possesses a valid Class
278 "G" license, or a licensed security agency manager who possesses
279 a valid Class "G" license, who is on duty, in uniform, providing
280 security services on the premises of a critical infrastructure
281 facility, and who has probable cause to believe that a person
282 has committed or is committing a crime against the client, or
283 the client's patron, of the licensed security officer or the
284 licensed security agency manager, may temporarily detain the
285 person for the purpose of ascertaining his or her identity and
286 the circumstances of the activity that is the basis for the
287 temporary detention. The security officer or security agency
288 manager may detain the person in a reasonable manner until the
289 responding law enforcement officer arrives at the premises of
290 the client and is in the presence of the detainee.

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291 (2) When temporarily detaining a person, the licensed
292 security officer or security agency manager shall notify the
293 appropriate law enforcement agency as soon as reasonably
294 possible. Temporary detention of a person by a licensed security
295 officer or security agency manager must be done solely for the
296 purpose of detaining the person before the arrival of a law
297 enforcement officer. Custody of any person being temporarily
298 detained shall be immediately transferred to the responding law
299 enforcement officer.

300 (3) A licensed security officer or security agency manager
301 may not detain a person under this section after the arrival of
302 a law enforcement officer unless the law enforcement officer
303 requests the security officer or security agency manager to
304 continue detaining the person. The responsibilities of the
305 licensed security officer or security agency manager do not
306 extend beyond the place where the person was first detained or
307 in the immediate vicinity.

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

311 (5) If a licensed security officer or security agency
312 manager, while detaining a person under this section, observes
313 that the person temporarily detained is armed with a firearm, a
314 concealed weapon, or a destructive device that poses a threat to
315 the safety of the security officer or security agency manager,
316 or any person for whom the security officer or security agency
317 manager is responsible for providing protection, or if the
318 detainee admits to having a weapon in his or her possession, the
319 security officer or security agency manager may conduct a search

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320 of the person and his or her belongings only to the extent
321 necessary for the purpose of disclosing the presence of a
322 weapon. If the search reveals such a weapon, the weapon shall be
323 seized and transferred to the responding law enforcement
324 officer.

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

333 (a) A chemical manufacturing facility;

334 (b) A refinery;

335 (c) An electrical power plant as defined in s. 403.031,
336 Florida Statutes, including a substation, switching station,
337 electrical control center, or electric transmission or
338 distribution facility;

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

341 (e) A natural gas transmission compressor station;

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

343 (g) A telecommunications central switching office;

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

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

347 (j) A public transportation facility as defined in s.
348 343.62, Florida Statutes.

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

353 Section 7. Paragraph (c) of subsection (16) of section
354 570.07, Florida Statutes, is amended to read:

355 570.07 Department of Agriculture and Consumer Services;
356 functions, powers, and duties.—The department shall have and
357 exercise the following functions, powers, and duties:

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

359 (c) Registration, labeling, inspection, sale, use,
360 composition, formulation, wholesale and retail distribution, and
361 analysis of commercial stock feeds and registration, labeling,
362 inspection, and analysis of commercial fertilizers;

363
364 In order to ensure uniform health and safety standards, the
365 adoption of standards and fines in the subject areas of
366 paragraphs (a)-(n) is expressly preempted to the state and the
367 department. Any local government enforcing the subject areas of
368 paragraphs (a)-(n) must use the standards and fines set forth in
369 the pertinent statutes or any rules adopted by the department
370 pursuant to those statutes.

371 Section 8. Subsection (1) of section 580.036, Florida
372 Statutes, is amended, and paragraph (g) is added to subsection
373 (2) of that section, to read:

374 580.036 Powers and duties.—

375 (1) The department shall administer and enforce the
376 provisions of this chapter. It shall have full authority to
377 inspect, sample, and analyze any commercial feed or feedstuff

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378 distributed in this state and to assess any penalties provided
379 for violation of this chapter. The department has exclusive
380 authority over the sale and use of any commercial feed or
381 feedstuff.

382 (2) The department is authorized to adopt rules pursuant to
383 ss. 120.536(1) and 120.54 to enforce the provisions of this
384 chapter. These rules shall be consistent with the rules and
385 standards of the United States Food and Drug Administration and
386 the United States Department of Agriculture, when applicable,
387 and shall include:

388 (g) Establishing standards for the sale, use, and
389 distribution of commercial feed or feedstuff to ensure usage
390 that is consistent with animal health, safety, and welfare and,
391 to the extent that meat, poultry, and other animal products may
392 be affected by commercial feed or feedstuff, with the safety of
393 these products for human consumption. Such standards, if
394 adopted, must be developed in consultation with the Commercial
395 Feed Technical Council created under s. 580.151.

396 Section 9. This act shall take effect July 1, 2012.