

1                                   A bill to be entitled  
2           An act relating to farming operations; amending s.  
3           823.14, F.S.; revising legislative findings; defining  
4           the term "agritourism activity"; revising the  
5           definition of the term "farm operation"; prohibiting  
6           farms from being held liable for certain claims for  
7           tort liability except under certain circumstances;  
8           providing a burden of proof; prohibiting nuisance  
9           actions from being filed against farm operations  
10          unless specified conditions are met; providing  
11          requirements for and limitations on damages; providing  
12          that plaintiffs who bring nuisance actions against  
13          farm operations are liable for certain costs and  
14          expenses under certain conditions; amending ss.  
15          193.4517, 316.5501, 633.202, and 812.015, F.S.;  
16          conforming cross-references; reenacting ss.  
17          163.3162(2)(b), 163.3163(3)(b), 403.9337(4), and  
18          570.86(4), F.S., relating to agricultural lands and  
19          practices, applications for development permits and  
20          disclosure and acknowledgment of contiguous  
21          sustainable agricultural land, Model Ordinance for  
22          Florida-Friendly Fertilizer Use on Urban Landscapes,  
23          and definitions relating to agritourism, respectively,  
24          to incorporate the amendments made by this act to s.  
25          823.14, F.S., in references thereto; providing an

26 |           effective date.

27 |  
28 |           WHEREAS, all 50 U.S. states have enacted "Right to Farm"  
29 | laws that protect farmers and ranchers from nuisance lawsuits  
30 | filed by individuals who move into a rural area where normal  
31 | farming operations exist and then use legal actions to stop or  
32 | interfere with ongoing farming operations, and

33 |           WHEREAS, Florida's Right to Farm legislation was enacted in  
34 | 1979 to protect agricultural operations from these types of  
35 | actions and is in need of updating, and

36 |           WHEREAS, as our state continues to experience unprecedented  
37 | growth and as residential development continues to encroach upon  
38 | our rural areas, there is a possibility for increased complaints  
39 | regarding farming practices approved by the Department of  
40 | Environmental Protection and the Department of Agriculture and  
41 | Consumer Services, such as harvesting, transporting crops, and  
42 | conducting controlled burning, despite the use of best  
43 | management practices, and

44 |           WHEREAS, because of the COVID-19 pandemic, there is an  
45 | increasing exodus from more densely populated areas from both  
46 | within and outside this state into our rural communities,  
47 | potentially creating conflicts with existing legal farming  
48 | activities and their complementary agritourism activities, and

49 |           WHEREAS, there is a longstanding tradition of using  
50 | agritourism activities, such as hayrides, corn mazes, winery

51 | tours, and farm festivals, to supplement income received from  
 52 | growing crops and raising farm animals, and

53 |         WHEREAS, ensuring the potential for revenues from  
 54 | agritourism activities is necessary to preserve farms and the  
 55 | rural character of many areas in the face of rising costs and  
 56 | foreign competition and the many uncertainties associated with  
 57 | growing crops and raising farm animals, and

58 |         WHEREAS, it is timely and prudent to modernize the Florida  
 59 | Right to Farm Act by clarifying definitions, standing, and  
 60 | procedures in order to ensure that the original intent of  
 61 | Florida's Right to Farm law is preserved and a viable  
 62 | agricultural industry in this state can continue, NOW,

63 | THEREFORE,

64 |

65 | Be It Enacted by the Legislature of the State of Florida:

66 |

67 |         Section 1. Subsections (2), (3), and (4) of section  
 68 | 823.14, Florida Statutes, are amended, and subsections (7), (8),  
 69 | and (9) are added to that section, to read:

70 |         823.14 Florida Right to Farm Act.—

71 |         (2) LEGISLATIVE FINDINGS AND PURPOSE.—The Legislature  
 72 | finds that agricultural production is a major contributor to the  
 73 | economy of the state; that agricultural lands constitute unique  
 74 | and irreplaceable resources of statewide importance; that the  
 75 | continuation of agricultural activities preserves the landscape

76 | and environmental resources of the state, contributes to the  
 77 | increase of tourism, including agritourism, and furthers the  
 78 | economic self-sufficiency of the people of the state; and that  
 79 | the encouragement, development, improvement, and preservation of  
 80 | agriculture will result in a general benefit to the health and  
 81 | welfare of the people of the state. The Legislature further  
 82 | finds that agricultural activities conducted on farm land in  
 83 | urbanizing areas are potentially subject to lawsuits based on  
 84 | the theory of nuisance and that these suits encourage and even  
 85 | force the premature removal of the farm land from agricultural  
 86 | use. It is the purpose of this act to protect reasonable  
 87 | agricultural and complementary agritourism activities conducted  
 88 | on farm land from nuisance suits and other similar lawsuits.

89 | (3) DEFINITIONS.—As used in this section:

90 | (a) "Agritourism activity" has the same meaning as  
 91 | provided in s. 570.86.

92 | (b) "Farm" means the land, buildings, support facilities,  
 93 | machinery, and other appurtenances used in the production of  
 94 | farm or aquaculture products.

95 | (c) ~~(b)~~ "Farm operation" means all conditions or activities  
 96 | by the owner, lessee, agent, independent contractor, and  
 97 | supplier which occur on a farm in connection with the production  
 98 | of farm, honeybee, or apiculture products or in connection with  
 99 | complementary agritourism activities. These conditions and  
 100 | activities include, but are ~~and includes, but is not limited to,~~

101 the marketing of produce at roadside stands or farm markets; the  
 102 operation of machinery and irrigation pumps; the generation of  
 103 noise, odors, dust, fumes, and particle emissions ~~and fumes~~;  
 104 ground or aerial seeding and spraying; the placement and  
 105 operation of an apiary; the application of chemical fertilizers,  
 106 conditioners, insecticides, pesticides, and herbicides;  
 107 agritourism activities; and the employment and use of labor.

108 (d)~~(e)~~ "Farm product" means any plant, as defined in s.  
 109 581.011, or animal or insect useful to humans and includes, but  
 110 is not limited to, any product derived therefrom.

111 (e)~~(d)~~ "Established date of operation" means the date the  
 112 farm operation commenced. If the farm operation is subsequently  
 113 expanded within the original boundaries of the farm land, the  
 114 established date of operation of the expansion shall also be  
 115 considered as the date the original farm operation commenced. If  
 116 the land boundaries of the farm are subsequently expanded, the  
 117 established date of operation for each expansion is deemed to be  
 118 a separate and independent established date of operation. The  
 119 expanded operation shall not divest the farm operation of a  
 120 previous established date of operation.

121 (4) FARM OPERATIONS; NUISANCE ~~FARM OPERATION NOT TO BE OR~~  
 122 ~~BECOME A NUISANCE.~~—

123 (a) No farm operation which has been in operation for 1  
 124 year or more since its established date of operation and which  
 125 was not a nuisance at the time of its established date of

126 operation shall be a public or private nuisance if the farm  
 127 operation conforms to generally accepted agricultural and  
 128 management practices, except that the following conditions shall  
 129 constitute evidence of a nuisance:

130 1. The presence of untreated or improperly treated human  
 131 waste, garbage, offal, dead animals, dangerous waste materials,  
 132 or gases which are harmful to human or animal life.

133 2. The presence of improperly built or improperly  
 134 maintained septic tanks, water closets, or privies.

135 3. The keeping of diseased animals which are dangerous to  
 136 human health, unless such animals are kept in accordance with a  
 137 current state or federal disease control program.

138 4. The presence of unsanitary places where animals are  
 139 slaughtered, which may give rise to diseases which are harmful  
 140 to human or animal life.

141 (b) No farm operation shall become a public or private  
 142 nuisance as a result of a change in ownership, a change in the  
 143 type of farm product being produced, a change in conditions in  
 144 or around the locality of the farm, or a change brought about to  
 145 comply with best management practices adopted by local, state,  
 146 or federal agencies if such farm has been in operation for 1  
 147 year or more since its established date of operation and if it  
 148 was not a nuisance at the time of its established date of  
 149 operation.

150 (c) A farm may not be held liable for a claim involving

151 public or private nuisance, negligence, trespass, personal  
152 injury, strict liability, or other tort based on a farm  
153 operation that is alleged to cause harm outside of the farm  
154 unless the plaintiff proves by clear and convincing evidence  
155 that the claim arises out of conduct that did not comply with  
156 state and federal environmental laws, regulations, or best  
157 management practices.

158 (d) A nuisance action may not be filed against a farm  
159 operation unless the real property affected by the conditions  
160 alleged to be a nuisance is located within one-half mile of the  
161 source of the activity or structure alleged to be a nuisance.

162 (7) COMPENSATORY DAMAGES.—When the alleged nuisance  
163 emanated from a farm operation, the compensatory damages that  
164 may be awarded to a plaintiff for a private nuisance action must  
165 be measured by the reduction in the fair market value of the  
166 plaintiff's property caused by the nuisance, but may not exceed  
167 the fair market value of the property.

168 (8) PUNITIVE DAMAGES.—A plaintiff may not recover punitive  
169 damages in a private nuisance action against a farm unless:

170 (a) The alleged nuisance is based on substantially the  
171 same conduct that resulted in a criminal conviction or a civil  
172 enforcement action by a state or federal environmental  
173 regulatory agency; and

174 (b) The conviction or enforcement action occurred within 3  
175 years of the first act forming the basis of the nuisance action.

176           (9) NUISANCE ACTIONS BASED ON EXISTING FARM OPERATIONS.—A  
 177 plaintiff who fails to prevail in a nuisance action based on a  
 178 farm operation that has been in existence for 1 year or more  
 179 before the date that the action was instituted and that conforms  
 180 with generally accepted agricultural and management practices or  
 181 state and federal environmental laws is liable to the farm for  
 182 all costs and expenses incurred in defense of the action.

183           Section 2. Paragraphs (a) and (b) of subsection (1) of  
 184 section 193.4517, Florida Statutes, are amended to read:

185           193.4517 Assessment of agricultural equipment rendered  
 186 unable to be used due to Hurricane Michael.—

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

188           (a) "Farm" has the same meaning as provided in s.  
 189 823.14(3)(b) ~~s. 823.14(3)(a)~~.

190           (b) "Farm operation" has the same meaning as provided in  
 191 s. 823.14(3)(c) ~~s. 823.14(3)(b)~~.

192           Section 3. Subsection (1) of section 316.5501, Florida  
 193 Statutes, is amended to read:

194           316.5501 Permitting program for combination truck tractor,  
 195 semitrailer, and trailer combination coupled as a single unit  
 196 subject to certain requirements.—

197           (1) By no later than January 1, 2020, the Department of  
 198 Transportation in conjunction with the Department of Highway  
 199 Safety and Motor Vehicles shall develop a permitting program  
 200 that, notwithstanding any other provision of law except



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201 conflicting federal law and applicable provisions of s. 316.550,  
202 prescribes the operation of any combination of truck tractor,  
203 semitrailer, and trailer combination coupled together so as to  
204 operate as a single unit in which the semitrailer and the  
205 trailer unit may each be up to 48 feet in length, but not less  
206 than 28 feet in length, if such truck tractor, semitrailer, and  
207 trailer combination is:

208 (a) Being used for the primary purpose of transporting  
209 farm products as defined in s. 823.14(3)(d) ~~s. 823.14(3)(c)~~ on a  
210 prescribed route within the boundary of the Everglades  
211 Agricultural Area as described in s. 373.4592(15);

212 (b) Traveling on a prescribed route that has been  
213 submitted to and approved by the Department of Transportation  
214 for public safety purposes having taken into account, at a  
215 minimum, the point of origin, destination, traffic and  
216 pedestrian volume on the route, turning radius at intersections  
217 along the route, and potential for damage to roadways or bridges  
218 on the route;

219 (c) Operating only on state or local roadways within a  
220 radius of 60 miles from where such truck tractor, semitrailer,  
221 and trailer combination was loaded; however, travel is not  
222 authorized on the Interstate Highway System; and

223 (d) Meeting the following weight limitations:

224 1. The maximum gross weight of the truck tractor and the  
225 first trailer shall not exceed 88,000 pounds.

226           2. The maximum gross weight of the dolly and second  
227 trailer shall not exceed 67,000 pounds.

228           3. The maximum overall gross weight of the truck tractor-  
229 semitrailer-trailer combination shall not exceed 155,000 pounds.

230           Section 4. Paragraph (b) of subsection (16) of section  
231 633.202, Florida Statutes, is amended to read:

232           633.202 Florida Fire Prevention Code.—

233           (16)

234           (b) Notwithstanding any other provision of law:

235           1. A nonresidential farm building in which the occupancy  
236 is limited by the property owner to no more than 35 persons is  
237 exempt from the Florida Fire Prevention Code, including the  
238 national codes and Life Safety Code incorporated by reference.

239           2. An agricultural pole barn is exempt from the Florida  
240 Fire Prevention Code, including the national codes and the Life  
241 Safety Code incorporated by reference.

242           3. Except for an agricultural pole barn, a structure on a  
243 farm, as defined in s. 823.14(3)(b) ~~s. 823.14(3)(a)~~, which is  
244 used by an owner for agritourism activity, as defined in s.  
245 570.86, for which the owner receives consideration must be  
246 classified in one of the following classes:

247           a. Class 1: A nonresidential farm building that is used by  
248 the owner 12 or fewer times per year for agritourism activity  
249 with up to 100 persons occupying the structure at one time. A  
250 structure in this class is subject to annual inspection for

251 classification by the local authority having jurisdiction. This  
252 class is not subject to the Florida Fire Prevention Code but is  
253 subject to rules adopted by the State Fire Marshal pursuant to  
254 this section.

255       b. Class 2: A nonresidential farm building that is used by  
256 the owner for agritourism activity with up to 300 persons  
257 occupying the structure at one time. A structure in this class  
258 is subject to annual inspection for classification by the local  
259 authority having jurisdiction. This class is not subject to the  
260 Florida Fire Prevention Code but is subject to rules adopted by  
261 the State Fire Marshal pursuant to this section.

262       c. Class 3: A structure or facility that is used primarily  
263 for housing, sheltering, or otherwise accommodating members of  
264 the general public. A structure or facility in this class is  
265 subject to annual inspection for classification by the local  
266 authority having jurisdiction. This class is subject to the  
267 Florida Fire Prevention Code.

268       Section 5. Paragraph (g) of subsection (1) of section  
269 812.015, Florida Statutes, is amended to read:

270       812.015 Retail and farm theft; transit fare evasion;  
271 mandatory fine; alternative punishment; detention and arrest;  
272 exemption from liability for false arrest; resisting arrest;  
273 penalties.—

274       (1) As used in this section:

275       (g) "Farm theft" means the unlawful taking possession of

276 any items that are grown or produced on land owned, rented, or  
 277 leased by another person. The term includes the unlawful taking  
 278 possession of equipment and associated materials used to grow or  
 279 produce farm products as defined in s. 823.14(3)(d) ~~s.~~  
 280 ~~823.14(3)(e)~~.

281 Section 6. For the purpose of incorporating the amendments  
 282 made by this act to section 823.14, Florida Statutes, in a  
 283 reference thereto, paragraph (b) of subsection (2) of section  
 284 163.3162, Florida Statutes, is reenacted to read:

285 163.3162 Agricultural Lands and Practices.—

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

287 (b) "Farm operation" has the same meaning as provided in  
 288 s. 823.14.

289 Section 7. For the purpose of incorporating the amendments  
 290 made by this act to section 823.14, Florida Statutes, in a  
 291 reference thereto, paragraph (b) of subsection (3) of section  
 292 163.3163, Florida Statutes, is reenacted to read:

293 163.3163 Applications for development permits; disclosure  
 294 and acknowledgment of contiguous sustainable agricultural land.—

295 (3) As used in this section, the term:

296 (b) "Farm operation" has the same meaning as defined in s.  
 297 823.14.

298 Section 8. For the purpose of incorporating the amendments  
 299 made by this act to section 823.14, Florida Statutes, in a  
 300 reference thereto, subsection (4) of section 403.9337, Florida

301 Statutes, is reenacted to read:

302 403.9337 Model Ordinance for Florida-Friendly Fertilizer  
 303 Use on Urban Landscapes.—

304 (4) This section does not apply to the use of fertilizer  
 305 on farm operations as defined in s. 823.14 or on lands  
 306 classified as agricultural lands pursuant to s. 193.461.

307 Section 9. For the purpose of incorporating the amendments  
 308 made by this act to section 823.14, Florida Statutes, in a  
 309 reference thereto, subsection (4) of section 570.86, Florida  
 310 Statutes, is reenacted to read:

311 570.86 Definitions.—As used in ss. 570.85–570.89, the  
 312 term:

313 (4) "Farm operation" has the same meaning as in s. 823.14.

314 Section 10. This act shall take effect July 1, 2021.