

HB 1021

2012

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.

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

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
 41 | provided in this section and s. 487.051(2), and notwithstanding
 42 | any other law, including any provision of chapter 125 or this
 43 | chapter:

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

54 | (c) For each governmental entity ~~county~~ that, before March
 55 | 1, 2009, adopted a stormwater utility ordinance or resolution,

HB 1021

2012

56 | adopted an ordinance or resolution establishing a municipal
57 | services benefit unit, or adopted a resolution stating the
58 | governmental entity's ~~county's~~ intent to use the uniform method
59 | of collection pursuant to s. 197.3632 for such stormwater
60 | ordinances, the governmental entity ~~county~~ may continue to
61 | charge an assessment or fee for stormwater management on a bona
62 | fide farm operation on land classified as agricultural pursuant
63 | to s. 193.461, if the ordinance or resolution provides credits
64 | against the assessment or fee on a bona fide farm operation for
65 | the water quality or flood control benefit of:

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

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

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

HB 1021

2012

84 National Pollutant Discharge Elimination System permit,
 85 environmental resource permit, or works-of-the-district permit.

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

91 Section 2. Paragraph (c) of subsection (4) of section
 92 206.41, Florida Statutes, is amended to read:

93 206.41 State taxes imposed on motor fuel.—

94 (4)

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

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

111 3. For the purposes of this paragraph, "commercial fishing

112 and aquacultural purposes" means motor fuel used in the
 113 operation of boats, vessels, or equipment used exclusively for
 114 the taking of fish, crayfish, oysters, shrimp, or sponges from
 115 salt or fresh waters under the jurisdiction of the state for
 116 resale to the public, and no part of which fuel is used in any
 117 vehicle or equipment driven or operated upon the highways of
 118 this state; however, the term may in no way be construed to
 119 include fuel used for sport or pleasure fishing.

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

125 Section 3. Paragraph (a) of subsection (5) of section
 126 316.515, Florida Statutes, is amended to read:

127 316.515 Maximum width, height, length.—

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

130 (a) Notwithstanding any other provisions of law, straight
 131 trucks, agricultural tractors, citrus harvesting equipment,
 132 citrus fruit loaders, and cotton module movers, not exceeding 50
 133 feet in length, or any combination of up to and including three
 134 implements of husbandry, including the towing power unit, and
 135 any single agricultural trailer with a load thereon or any
 136 agricultural implements attached to a towing power unit, or a
 137 self-propelled agricultural implement or an agricultural
 138 tractor, is authorized for the purpose of transporting peanuts,
 139 grains, soybeans, citrus, cotton, hay, straw, or other

HB 1021

2012

140 | perishable farm products from their point of production to the
 141 | first point of change of custody or of long-term storage, and
 142 | for the purpose of returning to such point of production, or for
 143 | the purpose of moving such tractors, movers, and implements from
 144 | one point of agricultural production to another, by a person
 145 | engaged in the production of any such product or custom hauler,
 146 | if such vehicle or combination of vehicles otherwise complies
 147 | with this section. The Department of Transportation may issue
 148 | overlength permits for cotton module movers greater than 50 feet
 149 | but not more than 55 feet in overall length. Such vehicles shall
 150 | be operated in accordance with all safety requirements
 151 | prescribed by law and rules of the Department of Transportation.

152 | Section 4. Paragraph (c) of subsection (16) of section
 153 | 570.07, Florida Statutes, is amended to read:

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

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

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

162 |
 163 | In order to ensure uniform health and safety standards, the
 164 | adoption of standards and fines in the subject areas of
 165 | paragraphs (a)-(n) is expressly preempted to the state and the
 166 | department. Any local government enforcing the subject areas of
 167 | paragraphs (a)-(n) must use the standards and fines set forth in

168 the pertinent statutes or any rules adopted by the department
 169 pursuant to those statutes.

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

172 580.036 Powers and duties.—

173 (2) The department is authorized to adopt rules pursuant
 174 to ss. 120.536(1) and 120.54 to enforce the provisions of this
 175 chapter. These rules shall be consistent with the rules and
 176 standards of the United States Food and Drug Administration and
 177 the United States Department of Agriculture, when applicable,
 178 and shall include:

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

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

189 810.127 Unauthorized entry and use of recording device on
 190 farm; penalties.—

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

192 (a) "Audio or video recording function" means the
 193 capability of a camera, an audio or video recorder, or any other
 194 device to record, store, transfer, broadcast, or transmit sound
 195 or images by means of any technology now known or later

196 developed, regardless of the recording media or format,
 197 including, but not limited to, photographs or film; magnetic
 198 storage, including audio cassette tapes, videocassette tapes,
 199 hard disk drives, and floppy disk drives; flash memory,
 200 including memory cards, flash drives, and solid state drives;
 201 optical disc storage media, including compact discs, digital
 202 versatile discs, and blu-ray discs; streaming media; and any
 203 other electrical, magnetic, optical, or form of data storage.

204 (b) "Farm" has the same meaning as provided in s. 823.14.
 205 For purposes of this section, the term also includes any other
 206 land upon which a legal farm operation is being conducted and
 207 upon which farm products are being produced.

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

210 (d) "Farm product" has the same meaning as provided in s.
 211 823.14.

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

218 (3) This section does not apply to:

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

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

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

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

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

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

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

234 (4) A person who violates this section commits a
 235 misdemeanor of the first degree, punishable as provided in s.
 236 775.082 or s. 775.083.

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