

## CHAPTER 2010-25

### Committee Substitute for Committee Substitute for Senate Bill No. 350

An act relating to tomato food safety; amending s. 500.03, F.S.; revising the term “food establishment” to include tomato repackers for purposes of the Florida Food Safety Act; creating s. 500.70, F.S.; defining terms; requiring minimum food safety standards for producing, harvesting, packing, and repacking tomatoes; authorizing the Department of Agriculture and Consumer Services to inspect tomato farms, greenhouses, and packinghouses or repackers; providing penalties; authorizing the department to establish good agricultural practices and best management practices for the tomato industry by rule; providing a presumption that tomatoes introduced into commerce are safe for human consumption under certain circumstances; providing exemptions; authorizing the department to adopt rules; amending s. 570.07, F.S.; authorizing the department to adopt best management practices for agricultural production and food safety; amending s. 570.48, F.S.; revising duties of the Division of Fruit and Vegetables for tomato food safety inspections; providing an effective date.

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

Section 1. Paragraph (n) of subsection (1) of section 500.03, Florida Statutes, is amended to read:

500.03 Definitions; construction; applicability.—

(1) For the purpose of this chapter, the term:

(n) “Food establishment” means any factory, food outlet, or any other facility manufacturing, processing, packing, holding, or preparing food; or selling food at wholesale or retail. The term does not include any business or activity that is regulated under chapter 509 or chapter 601. The term includes tomato packinghouses and repackers but does not include any other establishments that pack fruits and vegetables in their raw or natural states, including those fruits or vegetables that are washed, colored, or otherwise treated in their unpeeled, natural form before they are marketed.

Section 2. Section 500.70, Florida Statutes, is created to read:

500.70 Tomato food safety standards; inspections; penalties; tomato good agricultural practices; tomato best management practices.—

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

(a) “Field packing” means the packing of tomatoes on a tomato farm or in a tomato greenhouse into containers for sale for human consumption without transporting the tomatoes to a packinghouse.

(b) “Packing” or “repacking” means the packing of tomatoes into containers for sale for human consumption. The term includes the sorting or separating of tomatoes into grades and sizes. The term also includes field packing.

(c) “Producing” means the planting, growing, or cultivating of tomatoes on a tomato farm or in a tomato greenhouse for sale for human consumption.

(2) The department may adopt rules establishing food safety standards to safeguard the public health and promote the public welfare by protecting the consuming public from injury caused by the adulteration or the microbiological, chemical, or radiological contamination of tomatoes. The rules must be based on federal requirements, available scientific research, generally accepted industry practices, or recommendations of food safety professionals. The rules shall apply to the producing, harvesting, packing, and repacking of tomatoes for sale for human consumption by a tomato farm, tomato greenhouse, or tomato packinghouse or repacker in this state. The rules may include, but are not limited to, standards for:

(a) Registration with the department of a person who produces, harvests, packs, or repacks tomatoes in this state who does not hold a food permit issued under s. 500.12.

(b) Proximity of domestic animals and livestock to the production areas for tomatoes.

(c) Food safety related use of water for irrigation during production and washing of tomatoes after harvest.

(d) Use of fertilizers.

(e) Cleaning and sanitation of containers, materials, equipment, vehicles, and facilities, including storage and ripening areas.

(f) Health, hygiene, and sanitation of employees who handle tomatoes.

(g) Training and continuing education of a person who produces, harvests, packs, or repacks tomatoes in this state, and the person’s employees who handle tomatoes.

(h) Labeling and recordkeeping, including standards for identifying and tracing tomatoes for sale for human consumption.

(3)(a) The department may inspect tomato farms, tomato greenhouses, tomato packinghouses, repacking locations, or any vehicle being used to transport or hold tomatoes to ensure compliance with the applicable provisions of this chapter and the rules adopted under this chapter.

(b) The department may impose an administrative fine not to exceed \$5,000 per violation, or issue a written notice or warning under s. 500.179,

against a person who violates any applicable provision of this section or any rule adopted under this section.

(4)(a) The department may adopt rules establishing tomato good agricultural practices and tomato best management practices for the state’s tomato industry based on applicable federal requirements, available scientific research, generally accepted industry practices, or recommendations of food safety professionals.

(b) A person who documents compliance with the department’s rules, tomato good agricultural practices, and tomato best management practices is presumed to introduce tomatoes into the stream of commerce that are safe for human consumption, unless the department identifies noncompliance through inspections.

(5) Subsections (2) and (4) do not apply to tomatoes that are sold by the grower on the premises where the tomatoes are grown, at a local farmers’ market, at a U-pick operation, or at a roadside stand if the quantity of tomatoes sold does not exceed two 25-pound boxes per customer per day.

(6) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section.

Section 3. Subsection (10) of section 570.07, Florida Statutes, is amended to read:

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

(10) To act as adviser to producers and distributors, when requested, and to assist them in the economical and efficient distribution of their agricultural products, and to encourage cooperative effort among producers to gain economical and efficient production of agricultural products, and to adopt rules establishing comprehensive best management practices for agricultural production and food safety.

Section 4. Paragraph (e) of subsection (2) of section 570.48, Florida Statutes, is amended to read:

570.48 Division of Fruit and Vegetables; powers and duties; records.—The duties of the Division of Fruit and Vegetables include, but are not limited to:

(2)

(e) Performing tomato food safety inspections under s. 500.70 on tomato farms, in tomato greenhouses, and in tomato packinghouses and repackers.

Section 5. This act shall take effect July 1, 2010.

Approved by the Governor April 27, 2010.

Filed in Office Secretary of State April 27, 2010.