

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	HB 491	FINAL HOUSE FLOOR ACTION:		
SUBJECT/SHORT TITLE	Theft	114	Y's 0	N's
SPONSOR(S):	Roth and others	GOVERNOR'S ACTION:		Approved
COMPANION BILLS:	CS/SB 776			

SUMMARY ANALYSIS

HB 491 passed the House on March 5, 2018, and subsequently passed the Senate on March 7, 2018.

Theft of livestock and beehives in Florida has increased over the years. The use of beehives for commercial pollination has risen, resulting in greater theft. Additionally, beef prices have increased since around 2010, contributing to greater rates of cattle theft - also known as rustling.

Section 812.014(2)(c), F.S., makes it grand theft and a third degree felony if the property stolen is a commercially farmed animal, a bee colony of a registered beekeeper, or an aquaculture species raised at a certified aquaculture facility. The statute defines a commercially farmed animal to include any animal of the equine, bovine, or swine class or other grazing animal. A third degree felony is punishable by up to five years in prison and up to a \$5,000 fine. If the stolen property is an aquaculture species raised at a certified aquaculture facility, the crime carries a mandatory \$10,000 fine. The mandatory fine does not extend to theft of commercially farmed animals or bee colonies.

HB 491 amends the statute to include avian class animals to the category of commercially farmed animals. It also extends the mandatory \$10,000 fine to theft of commercially farmed animals and bee colonies, in addition to aquaculture species raised at a certified aquaculture facility.

The bill was approved by the Governor on March 21, 2018, ch. 2018-49 L.O.F., and will become effective on October 1, 2018.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

Property Theft

Section 812.014, F.S. defines and categories thefts into misdemeanor or felony criminal violations. Whether a theft is a misdemeanor or felony generally depends on the value of the property taken by the defendant, the defendant's history of theft convictions or, in some cases, the type of property taken.

A person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or use, the property of another with intent to, either temporarily or permanently:

- Deprive the other person of a right to the property or a benefit from the property; or
- Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.¹

Third degree grand theft, a third degree felony,² is theft of:

- Property valued at \$300 or more, but less than \$20,000.
- Specified property including:
 - A will, codicil, or testamentary instrument;
 - A firearm;
 - A motor vehicle;
 - Any commercially farmed animal including any animal of the equine, bovine, or swine class, or other grazing animal;
 - Any bee colony of a registered beekeeper;³
 - Any aquaculture species⁴ raised at a certified aquaculture facility;⁵
 - Any fire extinguisher;
 - Any amount of citrus fruit consisting of 2,000 or more individual pieces of fruit;
 - Property taken from a designated, posted construction site;
 - Any stop sign;
 - Anhydrous ammonia; and
 - Any amount of a controlled substance as defined in s. 893.02, F.S.

Currently, s. 812.014(2), F.S. requires that a fine of \$10,000 be imposed for theft of aquaculture species raised at a certified aquaculture facility.⁶ The fine for theft of a commercially farmed animal or bee colony is a maximum amount of \$5,000, the general fine for a third degree felony offense.⁷

¹ S. 812.014(1), F.S.

² A felony of the third degree if punishable by a term of imprisonment not exceeding 5 years and a fine not exceeding \$5,000 pursuant to s. 775.082 and s. 775.083, F.S.

³ S. 586.045, F.S., requires beekeepers to register with the Department of Agriculture and Consumer Services (DACS), and renew such registration annually.

⁴ S. 597.0015(1), F.S., defines "aquaculture" to mean the cultivation of aquatic organisms; see also S. 597.004, F.S., requiring any person engaging in aquaculture to be certified by DACS.

⁵ S. 812.014(2)(c), F.S.

⁶ S. 821.014(2)(c)7, F.S.

⁷ S. 812.014(2)(c), F.S.

Beehive Theft in Florida

In recent years, Florida has seen a dramatic increase in theft of beehives, partly due to the increasing use of bees for commercial pollination.⁸ An established hive can be worth up to \$300.⁹ During the summer of 2016, Florida lost an estimated 1,200 beehives to theft.¹⁰ Wonderful Bees operates in Lee and Charlotte counties and is one of the larger bee providers in the nation. In June of 2016, the company reported over 700 stolen hives, resulting in losses of more than \$150,000.¹¹

Cattle Theft

Since 2010, the nation has seen an increase in cattle theft, also referred to as rustling, as a result of the rise in beef prices.¹² Stolen cows are commonly sold in private sales or at local livestock auctions.¹³ Yearling cows weighing 600 to 700 pounds that once sold for around \$600 are now worth \$1,000 to \$1,200.¹⁴

There are several recent instances of cattle theft in Florida. In 2013, Martin County sheriff's deputies arrested an Okeechobee man on grand theft charges in the county's largest cattle rustling scheme in history.¹⁵ The man stole over 175 cows and sold them for a total of \$102,000.¹⁶ The farmer from whom the cows were stolen was forced to discontinue his business as a result of the theft.¹⁷ In 2015, a former Osceola County Sheriff's deputy was charged and convicted of stealing cows in Osceola and Volusia counties.¹⁸ In summer 2017, six men were arrested and charged with stealing four cows and four calves from a Lakeland pasture in Polk county in April 2017.¹⁹

Other States' Efforts

Several states have sought tougher penalties for theft of commercially farmed animals. In Texas, stealing cattle or horses is a third-degree felony, punishable by two to ten years in prison and a \$10,000 maximum fine.²⁰ In 2016, Oklahoma passed a law assessing fines at three times the value of the animal or equipment stolen and set a prison sentence of three to fifteen years.²¹ The law also provides that prosecutors in Oklahoma can charge a felony count for each animal stolen.²²

⁸ Brett Murphy, *Sticky Fingers: the rise of the bee thieves*, The Guardian (May 17, 2016), available at:

<https://www.theguardian.com/environment/2016/may/17/sticky-fingers-rise-of-the-bee-thieves>.

⁹ Michael Braun, *Theft of hives hits southwest Florida bee farmers*, Orlando Sentinel (August 28, 2016), available at:

<http://www.orlandosentinel.com/business/os-ap-theft-bee-hive-florida-20160828-story.html>.

¹⁰ Id.

¹¹ Id.

¹² Henry Pierson Curtis, *Former Osceola deputy in jail after being charged with stealing cattle*, Orlando Sentinel (November 11, 2015),

available at: <http://www.orlandosentinel.com/news/breaking-news/os-keith-collins-cattle-rustling-osceola-20151106-story.html>.

¹³ Id.

¹⁴ Id.

¹⁵ Terri Parker, *Sheriff calls cattle theft largest in Martin County's history*, WPBF News (October 29, 2013), available at:

<http://www.wpbf.com/article/sheriff-calls-cattle-theft-largest-in-martin-county-s-history/1319401>.

¹⁶ Id.

¹⁷ Id.

¹⁸ Henry Pierson Curtis, *Former Osceola deputy in jail after being charged with stealing cattle*, Orlando Sentinel (November 11, 2015), available at: <http://www.orlandosentinel.com/news/breaking-news/os-keith-collins-cattle-rustling-osceola-20151106-story.html>.

¹⁹ Associated Press, *6 Arrested in Separate Florida Cattle Thefts; 8 Cows Missing*, US News (June 18, 2017), available at:

<https://www.usnews.com/news/best-states/florida/articles/2017-06-18/6-arrested-in-separate-florida-cattle-thefts-8-cows-missing>.

²⁰ Tex. Code Ann. § 31.03; see also Donnelle Eller, *Stiffer penalties to be sought for livestock theft*, Des Moines Register (September 14, 2014), available at: <https://www.desmoinesregister.com/story/money/agriculture/2014/09/15/livestock-theft-stiffer-penalties/15652857/>.

²¹ OKLA. STAT. tit. 21, § 1716 (2016).

²² M. Scott Carter, *Under Bill, Tougher Penalties for Cattle Rustling than Assault*, Oklahoma Watch (February 25, 2015) available at: <http://oklahomawatch.org/2015/02/25/house-committee-mulls-new-fine-sentence-for-cattle-rustling/>; see also Associated Press, *Cattle rustling penalties to increase in US*, Reuters News Agency (April 14, 2016), available at: <https://www.producer.com/daily/cattle-rustling-penalties-to-increase-in-us/>.

Effect of Proposed Changes

HB 491 amends the statute to include avian class animals to the category of commercially farmed animals. It also extends the mandatory \$10,000 fine to theft of commercially farmed animals and bee colonies.

The bill also reenacts s. 932.701, F.S., concerning the Florida Contraband Forfeiture Act, to incorporate amendments made by the bill.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may result in an insignificant, indeterminate positive fiscal impact through collecting increased fines for the theft of a commercially farmed animal or bee colony of a registered beekeeper.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may result in an insignificant, indeterminate positive fiscal impact through collecting increased fines for the theft of a commercially farmed animal or bee colony of a registered beekeeper.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The mandatory fine for theft of beehives and cattle may dissuade persons from committing the offense, and protect the property of businesses engaged in beekeeping and raising cattle.

D. FISCAL COMMENTS:

None.