

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1528

SPONSOR: Judiciary Committee and Senator Geller

SUBJECT: Damage or Destruction of Agricultural Products

DATE: March 28, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Poole</u>	<u>AG</u>	<u>Favorable</u>
2.	<u>Forgas</u>	<u>Johnson</u>	<u>JU</u>	<u>Favorable/CS</u>
3.	_____	_____	<u>APJ</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Over the past few years, opponents of agricultural biotechnology have resorted to the destruction of private farm lands and field trials conducted by state universities and colleges as a means of protesting the technology. This bill allows a private or commercial agricultural grower or producer, whose crop has been willfully and knowingly destroyed by another person, to bring action for damages up to twice the market value of the crop. The legislation applies to any agricultural field crop grown for personal or commercial purposes or for testing or research in a product development program conducted in conjunction or coordination with a private research facility, a university, or any federal, state, or local government agency. The bill also provides considerations and limits in award of damages and provides for court costs and attorney's fees. If the property trespassed upon is an agricultural site for testing or research purposes, and is legally posted as such, the offender commits a felony of the third degree, punishable by a term of imprisonment not exceeding three years, a fine not to exceed \$5,000, or in the case of a habitual offender, a term of imprisonment not exceeding ten years.

This committee substitute creates section 604.60, Florida Statutes.

This committee substitute amends section 810.09, Florida Statutes.

This committee substitute reenacts sections 260.0125(5)(b) and 810.011(5)(b), Florida Statutes.

II. Present Situation:

Food biotechnology covers diverse activities from the use of yeast in brewing or bread-making to advanced plant-breeding techniques. New developments in biotechnology allow a researcher to identify and transfer the specific gene that creates a desired trait in a plant, and offer a more precise way to produce plants with certain beneficial characteristics, such as greater nutrition. Under a policy developed in 1986, three lead federal agencies, the U.S. Department of

Agriculture's Animal and Plant Health Inspection Service (USDA-APHIS), the Department of Health and Human Services' Food and Drug Administration, and the Environmental Protection Agency, have the responsibility for implementing the nation's biotechnology regulatory framework. Within this framework, the U.S. regulatory process is constantly being reassessed and refined for all foods, both bioengineered and traditional.

The United States has more than a decade of experience in regulating bioengineered foods. About 50 varieties of bioengineered food crops have gone through the U.S. government regulatory procedures, and thousands of foods containing ingredients from these bioengineered crops are currently on the U.S. market. USDA-APHIS regulates the field testing of genetically engineered plants. To satisfy USDA-APHIS regulatory requirements, a field test must be conducted in such a way that neither the genetically engineered plant nor its offspring establishes or survives beyond the field trial in either the agricultural or nonagricultural environment. Specific precautions must be taken to prevent the escape of pollen, plants, or plant parts from the field-test site. The field-test plot must be monitored the following year to assure that no "volunteer" plants survive and grow on the plot. In addition, once USDA-APHIS approves a new biotechnology-derived plant for field testing, agency officials and their state counterparts may inspect the field-test site before, during, and after a test to ensure that the test is conducted and managed safely.

In the past two to three years, there has been an increase in domestic terrorism by groups of citizens who vandalize or destroy property to further their causes. One such group, eco-terrorists, targets biotechnology, which is especially disturbing to the agricultural community. Because of the significant investment in agricultural research made by universities and technology companies, they have become prime targets for the activities of these eco-terrorists.

Since 1998, various groups of eco-terrorists have damaged or destroyed more than 40 private and government properties throughout the United States where genetic engineering was being conducted. Not only is there a loss of tangible property and crops when these attacks occur, but the greater loss is the unrecoverable value of the research being conducted.

Florida law provides a misdemeanor of the first degree for anyone caught trespassing or causing destruction to agricultural crops. California and Virginia have passed anti-crop destruction legislation. Such legislation has been introduced in sixteen other states.

III. Effect of Proposed Changes:

Section 1. Creates s. 604.60, F.S., to allow any private or commercial agricultural grower or producer who grows or produces any agricultural field crop for personal or commercial purposes or for testing or research purposes in a product development program conducted in conjunction or coordination with a private research facility, a university, or any governmental agency who suffers damage as a result of another person's willful and knowing damage or destruction of such crop to bring an action for damages for twice the value of the crop damaged or destroyed. Provides for court costs and attorney's fees for the prevailing party.

Section 2. Amends s. 810.09, F.S., to provide a third degree felony for offenders trespassing on agricultural sites legally posted and identified as being used for research and testing purposes.

Section 3. Reenacts sections 260.0125 and 810.011, F.S., to update the penalty structure referenced in s. 810.09, F.S.

Section 4. Provides that this bill shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.