

h1915-08

Bill No. HB 1915, 1st Eng.

Amendment No. ____ (for drafter's use only)

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

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Representative(s) Stansel offered the following:

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Amendment (with title amendment)

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On page 259, between lines 15 & 16,
remove from the bill:

14

15

16

and insert in lieu thereof:

17

Section 179. Section 604.60, Florida Statutes, is
created to read:

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19

604.60 Damage or destruction of agricultural crops;
civil action.--

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21

(1) Any private, public, or commercial agricultural
grower or producer who grows or produces any agricultural
product, as defined in s. 468.382(7), for personal, research,
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 federal, state, or local government agency who suffers
damages as a result of another person's willful and knowing
damage or destruction of any such agricultural product has a
cause of action for damages equal to double the amount of the

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1 value of the product damaged or destroyed, including the cost
2 of any experimental product replication, and for any other
3 relief a court of competent jurisdiction deems appropriate,
4 including, but not limited to, compensatory and punitive
5 damages. In awarding damages under this section, the courts
6 shall consider the market value of the product prior to damage
7 or destruction, and production, research, testing,
8 replacement, and product development costs directly related to
9 the product that has been damaged or destroyed as part of the
10 value of the product. The prevailing party in any action
11 brought pursuant to this section is entitled to an award of
12 reasonable attorney's fees and court costs.

13 Section 180. Section 810.09, Florida Statutes, is
14 amended to read:

15 810.09 Trespass on property other than structure or
16 conveyance.--

17 (1)(a) A person who, without being authorized,
18 licensed, or invited, willfully enters upon or remains in any
19 property other than a structure or conveyance:

20 1. As to which notice against entering or remaining is
21 given, either by actual communication to the offender or by
22 posting, fencing, or cultivation as described in s. 810.011;
23 or

24 2. If the property is the unenclosed curtilage of a
25 dwelling and the offender enters or remains with the intent to
26 commit an offense thereon, other than the offense of trespass,
27
28 commits the offense of trespass on property other than a
29 structure or conveyance.

30 (b) As used in this section, the term "unenclosed
31 curtilage" means the unenclosed land or grounds, and any

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1 outbuildings, that are directly and intimately adjacent to and
2 connected with the dwelling and necessary, convenient, and
3 habitually used in connection with that dwelling.

4 (2)(a) Except as provided in this subsection, trespass
5 on property other than a structure or conveyance is a
6 misdemeanor of the first degree, punishable as provided in s.
7 775.082 or s. 775.083.

8 (b) If the offender defies an order to leave,
9 personally communicated to the offender by the owner of the
10 premises or by an authorized person, or if the offender
11 willfully opens any door, fence, or gate or does any act that
12 exposes animals, crops, or other property to waste,
13 destruction, or freedom; unlawfully dumps litter on property;
14 or trespasses on property other than a structure or
15 conveyance, the offender commits a misdemeanor of the first
16 degree, punishable as provided in s. 775.082 or s. 775.083.

17 (c) If the offender is armed with a firearm or other
18 dangerous weapon during the commission of the offense of
19 trespass on property other than a structure or conveyance, he
20 or she is guilty of a felony of the third degree, punishable
21 as provided in s. 775.082, s. 775.083, or s. 775.084. Any
22 owner or person authorized by the owner may, for prosecution
23 purposes, take into custody and detain, in a reasonable
24 manner, for a reasonable length of time, any person when he or
25 she reasonably believes that a violation of this paragraph has
26 been or is being committed, and that the person to be taken
27 into custody and detained has committed or is committing such
28 violation. In the event a person is taken into custody, a law
29 enforcement officer shall be called as soon as is practicable
30 after the person has been taken into custody. The taking into
31 custody and detention in compliance with the requirements of

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1 this paragraph does not result in criminal or civil liability
2 for false arrest, false imprisonment, or unlawful detention.

3 (d) The offender commits a felony of the third degree,
4 punishable as provided in s. 775.082, s. 775.083, or s.
5 775.084, if the property trespassed is a construction site
6 that is legally posted and identified in substantially the
7 following manner: "THIS AREA IS A DESIGNATED CONSTRUCTION
8 SITE, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A
9 FELONY."

10 (e) The offender commits a felony of the third degree,
11 punishable as provided in s. 775.082, s. 775.083, or s.
12 775.084, if the property trespassed upon is commercial
13 horticulture property and the property is legally posted and
14 identified in substantially the following manner: "THIS AREA
15 IS DESIGNATED COMMERCIAL PROPERTY FOR HORTICULTURE PRODUCTS,
16 AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

17 (f) The offender commits a felony of the third degree,
18 punishable as provided in s. 775.082, s. 775.083, or s.
19 775.084, if the property trespassed upon is an agricultural
20 site for testing or research purposes that is legally posted
21 and identified in substantially the following manner: "THIS
22 AREA IS A DESIGNATED AGRICULTURAL SITE FOR TESTING OR RESEARCH
23 PURPOSES, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A
24 FELONY."

25 (g)~~(f)~~ Any person who in taking or attempting to take
26 any animal described in s. 372.001(3) or (4), or in killing,
27 attempting to kill, or endangering any animal described in s.
28 585.01(13) knowingly propels or causes to be propelled any
29 potentially lethal projectile over or across private land
30 without authorization commits trespass, a felony of the third
31 degree, punishable as provided in s. 775.082, s. 775.083, or

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1 s. 775.084. For purposes of this paragraph, the term
2 "potentially lethal projectile" includes any projectile
3 launched from any firearm, bow, crossbow, or similar tensile
4 device. This section shall not apply to any governmental
5 agent or employee acting within the scope of his or her
6 official duties.

7 (3) As used in this section, the term "authorized
8 person" or "person authorized" means any owner, or his or her
9 agent, or any law enforcement officer whose department has
10 received written authorization from the owner, or his or her
11 agent, to communicate an order to leave the property in the
12 case of a threat to public safety or welfare.

13 Section 181. For the purpose of incorporating the
14 amendment to section 810.09, Florida Statutes, in references
15 thereto, the sections or subdivisions of Florida Statutes set
16 forth below are reenacted to read:

17 260.0125 Limitation on liability of private landowners
18 whose property is designated as part of the statewide system
19 of greenways and trails.--

20 (5)

21 (b) Such notices must comply with s. 810.011(5) and
22 shall constitute a warning to unauthorized persons to remain
23 off the private property and not to depart from the designated
24 greenway or trail. Any person who commits such an unauthorized
25 entry commits a trespass as provided in s. 810.09.

26 810.011 Definitions.--As used in this chapter:

27 (5)

28 (b) It shall not be necessary to give notice by
29 posting on any enclosed land or place not exceeding 5 acres in
30 area on which there is a dwelling house in order to obtain the
31 benefits of ss. 810.09 and 810.12 pertaining to trespass on

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1 enclosed lands.

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4 ===== T I T L E A M E N D M E N T =====

5 And the title is amended as follows:

6 On page 19, line 5,

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8 after the semicolon insert:

9 creating s. 604.60, F.S.; providing that
10 certain agricultural growers or producers shall
11 have a right to recover damages as a result of
12 willful and knowing damage or destruction of
13 specified agricultural products; providing
14 considerations and limits in award of damages;
15 providing for costs and attorney's fees;
16 amending s. 810.09, F.S.; prohibiting trespass
17 upon specified legally posted agricultural
18 sites; providing a penalty; reenacting ss.
19 260.0125(5)(b) and 810.011(5)(b), F.S., to
20 incorporate the amendment to s. 810.09, F.S.,
21 in references thereto;

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