

STORAGE NAME: h0719s1.ag.doc
DATE: March 15, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
AGRICULTURE & CONSUMER AFFAIRS
ANALYSIS**

BILL #: CS/HB 719
RELATING TO: Damage or destruction of agricultural products
SPONSOR(S): Committee on Agriculture & Consumer Affairs & Representative(s) Stansel & others
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) AGRICULTURE & CONSUMER AFFAIRS (CCC) YEAS 8 NAYS 0
 - (2) JUDICIAL OVERSIGHT (SGC)
 - (3) CRIME PREVENTION, CORRECTIONS & SAFETY (HCC)
 - (4) COUNCIL FOR COMPETITIVE COMMERCE
 - (5)
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I. SUMMARY:

CS/HB 719 allows a private or commercial agricultural grower or producer, whose agricultural product is willfully and knowingly destroyed by another person, to bring action for damages up to twice the market value of the crop, as well as the cost of any experimental product replication. The legislation applies to any agricultural product grown or raised for personal, research 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.

In addition, CS/HB 719 provides a person caught trespassing upon agricultural sites, which are legally posted and identified as being used for research and testing purposes, commits a felony of the third degree.

This legislation has no fiscal impact. The effective date of this legislation is upon becoming law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

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.

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

C. EFFECT OF PROPOSED CHANGES:

CS/HB 719 allows a private or commercial agricultural grower or producer, whose agricultural product is willfully and knowingly destroyed by another person, to bring action for damages up to twice the market value of the crop, as well as the cost of any experimental product replication. The legislation applies to any agricultural product grown or raised for personal, research 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 3 years, a fine not to exceed \$5000, or in the case of a habitual offender, a term of imprisonment not exceeding 10 years.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Creates s. 604.60, F.S., allowing any private or commercial agricultural grower or producer who grows or produces any agricultural product 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 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, as well as the cost of any experimental product replication; providing considerations and limits for awards of damages; and, providing for court costs and attorney's fees for the prevailing party.

Section 2: Amends s. 810.09, F.S., providing a third degree felony for offender 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., updating the penalty structure referenced in s. 810.09, F.S.

Section 4: Provides the bill will take effect upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce any state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 14, 2001, the Committee on Agriculture and Consumer Affairs adopted one amendment and moved to make HB 719 a committee substitute. The amendment expanded the language to encompass agricultural products rather than just field crops. It also included the cost of any experimental product replication in damages to be recouped.

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE & CONSUMER AFFAIRS:

Prepared by:

Staff Director:

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