

# 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 1772

SPONSOR: Agriculture and Consumer Services Committee and Senator Smith

SUBJECT: Damage or Destruction of Agricultural Products or Production Systems

DATE: March 8, 2002

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Weidenbenner</u>	<u>Poole</u>	<u>AG</u>	<u>Favorable/CS</u>
2.	<u>Forgas</u>	<u>Johnson</u>	<u>JU</u>	<u>Fav/1 amendment</u>
3.	<u>Rhea</u>	<u>Wilson</u>	<u>GO</u>	<u>Favorable</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

Section 604.60, F.S., was created by the Legislature in the 2001 regular session to provide a civil cause of action against a person who damages or destroys agricultural products. This bill clarifies the definition of agricultural products and adds damage to land, building, or equipment as items that can be recovered in the civil action provided by the statute. The bill also increases the amount of damages that can be recovered from double to triple the amount of the value of the damaged product. It also exempts government agencies at local and state levels from liability for actions taken by them in the performance of their powers and duties.

This bill amends section 604.60 of the Florida Statutes.

## II. Present Situation:

During the past five years, the number of incidents in which individuals or groups vandalize or destroy property to further various causes has increased. Properties on which biotechnology research is conducted are prime targets. Since 1998, various groups have damaged or destroyed more than 40 private and government properties in 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 valuable research is lost, as well.

In 2001, the Florida Legislature created s. 604.60, F.S.,<sup>1</sup> to allow any private, public, or commercial agricultural grower or producer who grows or produces any agricultural field crop for personal, commercial, testing or research purposes to bring a civil action for damages when another person willfully and knowingly damages or destroys such agricultural field crop. Section 604.60, F.S., provides that the damages recoverable are equal to double the amount of

---

<sup>1</sup> Ch. 2002-182, 279, L.O.F.

the value of the damaged or destroyed product, including the cost of any experimental product replication. Additionally, s. 604.60, F.S., authorizes the court to grant any other relief deemed appropriate including, but not limited to, compensatory and punitive damages.

Pursuant to s. 810.09(2)(f), F.S., it is a third degree felony to trespass on agriculture sites legally posted and identified as being used for research and testing purposes.

The economic consequences of such acts can be far greater than the damages to the crops. Soil and production equipment can be damaged and compromised at a great economic loss and assets in this category, referred to as “agricultural production systems,” are not covered by current statute. Also, no exemption from liability is provided for government workers for actions taken by them in the performance of their powers and duties under present law.

### III. Effect of Proposed Changes:

**Section 1.** Existing s. 604.60, F.S., is divided into four subsections.

Subsection (1) provides definitions for “agricultural product” and “agricultural production system” as follows:

- “Agriculture product” is currently defined by reference to s. 468.382(7), F.S. The bill deletes the reference to s. 468.382(7), F.S., and expressly incorporates the definition. The term is defined to mean the natural products from a farm, nursery, grove, orchard, vineyard, garden, or apiary, including livestock, tobacco, and vegetables, and includes aquacultural, horticultural, viticultural, forestry, aquatic, dairy, livestock, poultry, bee and any farm products.
- “Agricultural production system” means land, buildings, or equipment used in the production of any agricultural product as defined above.

Subsection (2) contains the existing cause of action for the recovery of damages for damage to agriculture products and expands it to cover damage to an agricultural production system. Additionally, the amount of damages that can be recovered is increased from double to triple the amount of value of the damaged product or production system.

Subsection (3) provides directions on how to measure the amount of damages and also provides that the prevailing party is entitled to reasonable attorney’s fees and court costs.

Subsection (4) provides an exemption from liability under this section for government workers at all levels for action taken in the performance of their powers and duties.

**Section 2.** Provides that this bill shall take effect on October 1, 2002.

**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:

This bill increases the amount of damages, from double to triple the value of the loss, that growers or producers of agriculture products could potentially recover for damage to their agriculture products or agricultural production systems.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Judiciary

Removes from the bill the subsection that provides immunity to governmental entities from causes of action under s. 604.60, F.S.