

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 1094

INTRODUCER: Senator Simmons

SUBJECT: Trespass on Airport Property

DATE: February 19, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Jones</u>	<u>CJ</u>	Favorable
2.	<u>Cochran</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1094 provides that it is a third degree felony to trespass with the intent to injure another person, damage property, or impede the operation or use of an aircraft, runway, taxiway, ramp, or apron area, and the property trespassed upon is the operational area of an airport that is legally posted and identified as specified in the bill. The bill defines the term “operational area of an airport.”

II. Present Situation:

Trespass upon the Operational Area of an Airport

Four incidents reported in the media provide examples of trespassing upon the operational area of an airport. In 2014, a man reportedly breached a fence at the Orlando International Airport and tried to crawl into the wheel well of a parked airplane.¹ That same year, a man reportedly scaled a fence at Tampa International Airport and went onto an active runway.² In March of 2015, a woman reportedly scaled a fence on the perimeter of the Miami-Dade International Airport.³ In June of 2017, a man reportedly entered an airfield owned by the City of Lakeland and jumped onto the wing of an airplane that was preparing to taxi down the runway.⁴

¹ “Arrest at Orlando International Airport” (September 18, 2014), cityoforlando.net, available at <http://www.cityoforlando.net/police/arrest-at-orlando-international-airport/> (last visited on Feb. 15, 2018).

² Mike M. Ahlers, “Man Jumps Tampa airport fence, taken into custody” (May 19, 2014), CNN, available at <http://www.cnn.com/2014/05/19/us/florida-airport-fence-jumper/index.html> (last visited on Feb. 15, 2018).

³ Peter D’Oench, “Police: Woman Arrested for Scaling Miami Airport Fence” (March 2, 2015), CBS Miami, available at <http://miami.cbslocal.com/2015/03/02/police-woman-arrested-for-scaling-miami-airport-fence/> (last viewed on Feb. 15, 2018).

⁴ “Florida man steals van, tries to board airplane in Lakeland” (June 23, 2017), WFTS Tampa Bay, available at <https://www.abcactionnews.com/news/region-polk/lakeland/florida-man-steals-van-tries-to-board-airplane-on-runway-in-lakeland> (last visited on Feb. 15, 2018).

Florida Trespassing Law

Florida law does not specifically punish trespassing upon the operational area of an airport,⁵ though such trespassing could be charged and punished under s. 810.09, F.S., relating to trespass on property other than a structure or conveyance. Further, s. 901.15(14), F.S., authorizes a law enforcement officer to make a warrantless arrest when there is probable cause to believe that the person has committed trespass in a secure area of an airport when signs are posted in conspicuous areas of the airport which notify that unauthorized entry into such areas constitutes a trespass and specify the methods for gaining authorized access to such areas. An arrest under this subsection may be made on or off airport premises.

Section 810.09(1)(a) and (2)(a), F.S., provides that a person commits the offense of trespass on property other than a structure or conveyance, a first degree misdemeanor,⁶ if the person, without being authorized, licensed, or invited, willfully enters upon or remains in any property other than a structure or conveyance:

- As to which notice against entering or remaining is given, either by actual communication to the offender or by posting, fencing, or cultivation;⁷ or
- If the property is the unenclosed curtilage⁸ of a dwelling⁹ and the offender enters or remains with the intent to commit an offense thereon, other than the offense of trespass.

Section 810.09(2)(b), F.S., provides that it is a first degree misdemeanor if a person defies an order to leave, personally communicated to the offender by the owner of the premises or by an authorized person, or if the offender willfully opens any door, fence, or gate or does any act that exposes animals, crops, or other property to waste, destruction, or freedom; unlawfully dumps litter on property; or trespasses on property other than a structure or conveyance.

Generally, trespass on property other than a structure or conveyance is a misdemeanor. However, such trespass is a third degree felony¹⁰ if a person is armed with a firearm or other dangerous weapon during the commission of such trespass¹¹ or if such trespass is upon specified types of property. For example, it is a third degree felony to trespass on a designated construction site,

⁵ Federal law prohibits a person from knowingly and willfully entering, in violation of specified federal security requirements, an aircraft or an airport area that serves an air carrier or foreign air carrier. 49 U.S.C. s. 46314(a). A violation is punishable by fine and imprisonment of not more than one year. 49 U.S.C. s. 46314(b)1. However, a person committing this violation with intent to evade security procedures or restrictions or with intent to commit, in the aircraft or airport area, a federal or state felony, is subject to a fine, imprisonment for not more than 10 years, or both. 42 U.S.C s. 46314(b)(2).

⁶ A first degree misdemeanor is punishable by up to a year in jail, a fine of up to \$1,000, or both. Sections 775.082 and 775.083, F.S.

⁷ "Cultivated land" means land which has been cleared of its natural vegetation and is presently planted with a crop, orchard, grove, pasture, or trees or is fallow land as part of a crop rotation. Section 810.011(6), F.S.

⁸ "Unenclosed curtilage" means the unenclosed land or grounds, and any outbuildings, that are directly and intimately adjacent to and connected with the dwelling and necessary, convenient, and habitually used in connection with that dwelling. Section 810.09(1)(b), F.S.

⁹ "Dwelling" means a building or conveyance of any kind, including any attached porch, whether such building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it and is designed to be occupied by people lodging therein at night, together with the curtilage thereof. Section 810.011(2), F.S.

¹⁰ A third degree felony is punishable by up to five years in prison, a fine of up to \$5,000, or both. Sections 775.082 and 775.083, F.S.

¹¹ Section 810.09(2)(c), F.S.

commercial horticulture property, and agricultural chemical manufacturing facility.¹² The protected property must have a posted sign that contains specific language identifying the property and indicating that trespass on the property is a felony.¹³

III. Effect of Proposed Changes:

The bill amends s. 810.09, F.S., relating to trespass on property other than a structure or conveyance, to provide that it is a third degree felony¹⁴ to trespass with the intent to injure another person, damage property, or impede the operation or use of an aircraft, runway,¹⁵ taxiway,¹⁶ ramp, or apron area,¹⁷ and the property trespassed upon is the operational area of an airport that is legally posted and identified in substantially the following manner:

THIS AREA IS A DESIGNATED OPERATIONAL AREA OF AN AIRPORT AND
ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY.

The bill defines the term “operational area of an airport” as any portion of an airport to which access by the public is prohibited by fences or appropriate signs, and includes runways, taxiways, ramps, apron areas, aircraft parking and storage areas, fuel storage areas, maintenance areas, and any other area of an airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft.

The bill takes effect October 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹² Section 810.09(2)(d), (e), and (i), F.S.

¹³ *Id.*

¹⁴ *Supra*, n. 10.

¹⁵ A “runway” is “[a] defined rectangular area on a land aerodrome prepared for the landing and take-off of aircraft.” *Runway Safety Team Handbook*, Second Ed. (unedited version) (June 2015), p. 5, International Civil Aviation Organization, available at <https://www.icao.int/safety/RunwaySafety/Documents%20and%20Toolkits/ICAO%20RST%20Handbook%202nd%20Edition%202015%20REV2.pdf> (last visited on Feb. 15, 2018).

¹⁶ A “taxiway” is “any surface area of an airport used for taxiing airplanes to and from a runway, parking apron, terminal, etc.” Definition of “taxiway,” Dictionary.com, available at <http://www.dictionary.com/browse/taxiway> (last visited on Feb. 15, 2018).

¹⁷ An “apron” or “ramp” is “[a] defined area on an airport intended to accommodate aircraft for purposes of loading or unloading passengers or cargo, refueling, parking, and maintenance.” Advisory Circular, No: 120-57A (Dec. 19, 1996), p. 2, Federal Aviation Administration, available at: https://www.faa.gov/documentLibrary/media/Advisory_Circular/AC%20120-57A.pdf (last visited on Feb. 15, 2018).

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may financially benefit airports if it reduces instances of trespassing on airport property and if there are currently costs to airports associated with responding to such trespassing.

C. Government Sector Impact:

The Criminal Justice Impact Conference has determined that the bill will have a “positive insignificant” prison bed impact (an increase of 10 or fewer prison beds).¹⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 810.09 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

¹⁸ Email from staff of the Legislature’s Office of Economic and Demographic Research, dated Feb. 6, 2018 (on file with the Senate Committee on Criminal Justice).