

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 491 Theft  
**SPONSOR(S):** Roth  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 776

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	9 Y, 0 N	Painter	Sumner
2) Judiciary Committee	19 Y, 0 N	Painter	Poche

### SUMMARY ANALYSIS

Theft of livestock and beehives in Florida has increased over the years. The use of beehives for commercial pollination has risen, resulting in greater theft. Additionally, beef prices have increased since around 2010, contributing to greater rates of cattle theft - also known as rustling.

Section 812.014(2)(c), F.S., makes it grand theft and a third degree felony if the property stolen is a commercially farmed animal, a bee colony of a registered beekeeper, or an aquaculture species raised at a certified aquaculture facility. A third degree felony is punishable by up to five years in prison and up to a \$5,000 fine. If the stolen property is an aquaculture species raised at a certified aquaculture facility, the crime carries a mandatory \$10,000 fine. The mandatory fine does not extend to theft of commercially farmed animals or bee colonies.

HB 491 extends the mandatory \$10,000 fine to theft of commercially farmed animals and bee colonies.

The bill may have an indeterminate, insignificant positive fiscal impact due to the collection of increased fines.

The bill provides an effective date of October 1, 2018.

## FULL ANALYSIS I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

In Florida, it is grand theft and a third-degree felony to steal any commercially farmed animal<sup>1</sup>, bee colony of a registered beekeeper<sup>2</sup>, or aquaculture species<sup>3</sup> raised at a certified aquaculture facility.<sup>4</sup> The crime is punishable as provided in s. 775.082, F.S.,<sup>5</sup> and s. 775.083, F.S.<sup>6</sup> In addition, if the property stolen is an aquaculture species raised at a certified aquaculture facility, then a \$10,000 fine is mandatory.<sup>7</sup> This same provision does not apply if the property stolen is a commercially farmed animal or a bee colony.

#### Beehive Theft in Florida

In recent years, Florida has seen a dramatic increase in theft of beehives, partly due to the increasing use of bees for commercial pollination.<sup>8</sup> An established hive can be worth up to \$300.<sup>9</sup> During the summer of 2016, Florida lost an estimated 1,200 beehives to theft.<sup>10</sup> Wonderful Bees operates in Lee and Charlotte counties and is one of the larger bee providers in the nation. In June of 2016, the company reported over 700 stolen hives, resulting in losses of more than \$150,000.<sup>11</sup> Wonderful Bees even offered a \$10,000 reward for anyone with knowledge of the thefts.<sup>12</sup> The increase in theft has resulted in many small beehive businesses struggling to remain open or to consider leaving the industry altogether.<sup>13</sup> Larger companies, who may have the means to protect themselves, have started using embed chips with tracking devices to track the beehives.<sup>14</sup>

#### Cattle Theft

Since 2010, the nation has seen an increase in cattle theft, also referred to as rustling, as a result of the rise in beef prices.<sup>15</sup> Stolen cows are commonly sold in private sales or at local livestock auctions.<sup>16</sup> Yearling cows weighing 600 to 700 pounds that once sold for around \$600 are now worth \$1,000 to \$1,200.<sup>17</sup>

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<sup>1</sup> Pursuant to S. 814.014(2)(c), F.S., this includes any animal of the equine, bovine, or swine class or other grazing animal.

<sup>2</sup> S. 586.045, F.S., requires beekeepers to register with the Department of Agriculture and Consumer Services (DACs), and renew such registration annually.

<sup>3</sup> S. 597.0015(1), F.S., defines "aquaculture" to mean the cultivation of aquatic organisms; see also S. 597.004, F.S., requiring any person engaging in aquaculture to be certified by DACs.

<sup>4</sup> S. 812.014(2)(c), F.S.

<sup>5</sup> S. 775.082, F.S., provides that a felony of the third degree is punishable by a term of imprisonment not exceeding 5 years.

<sup>6</sup> S. 775.083, F.S., provides that fines for a felony of the third degree may not exceed \$5,000.

<sup>7</sup> S. 812.014(2)(c), F.S.

<sup>8</sup> Brett Murphy, *Sticky Fingers: the rise of the bee thieves*, The Guardian (May 17, 2016), available at: <https://www.theguardian.com/environment/2016/may/17/sticky-fingers-rise-of-the-bee-thieves>.

<sup>9</sup> Michael Braun, *Theft of hives hits southwest Florida bee farmers*, Orlando Sentinel (August 28, 2016), available at: <http://www.orlandosentinel.com/business/os-ap-theft-bee-hive-florida-20160828-story.html>.

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Associated Press, *Beehive theft cases on the rise in SWFL*, NBC2 (August 17, 2016), available at: <http://www.nbc-2.com/story/32779137/10000-reward-offered-for-convictions-in-bee-theft-cases>.

<sup>15</sup> Henry Pierson Curtis, *Former Osceola deputy in jail after being charged with stealing cattle*, Orlando Sentinel (November 11, 2015), available at: <http://www.orlandosentinel.com/news/breaking-news/os-keith-collins-cattle-rustling-osceola-20151106-story.html>.

<sup>16</sup> Id.

<sup>17</sup> Id.

There are several recent instances of cattle theft in Florida. In 2013, Martin County sheriff's deputies arrested an Okeechobee man on grand theft charges in the county's largest cattle rustling scheme in history.<sup>18</sup> The man stole over 175 cows and sold them for a total of \$102,000.<sup>19</sup> The farmer from whom the cows were stolen was forced to discontinue his business as a result of the theft.<sup>20</sup> In 2015, a former Osceola County Sheriff's deputy was charged and convicted of stealing cows in Osceola and Volusia counties.<sup>21</sup> In summer 2017, six men were arrested and charged with stealing four cows and four calves from a Lakeland pasture in Polk county in April 2017.<sup>22</sup>

### Other States' Efforts

Several states have sought tougher penalties for theft of commercially farmed animals. In Texas, stealing cattle or horses is a third-degree felony, punishable by two to ten years in prison and a \$10,000 maximum fine.<sup>23</sup> The Iowa Farm Bureau Federation has lobbied, unsuccessfully, for mandatory minimum prison sentences for cattle theft.<sup>24</sup> In 2016, Oklahoma passed a law assessing fines at three times the value of the animal or equipment stolen and set a prison sentence of three to fifteen years.<sup>25</sup> The law also provides that prosecutors in Oklahoma can charge a felony count for each animal stolen.<sup>26</sup>

### **Effect of Proposed Changes**

HB 491 amends s. 812.014(2)(c), F.S., to extend a mandatory \$10,000 fine to theft of commercially farmed animals and bee colonies of registered beekeepers. The crime remains punishable by up to five years in prison.

The bill also reenacts s. 932.701, F.S., concerning the Florida Contraband Forfeiture Act, to incorporate amendments made by the bill.

The bill provides an effective date of October 1, 2018.

#### **B. SECTION DIRECTORY:**

**Section 1:** Amends 812.014, F.S., relating to theft.

**Section 2:** Reenacts 932.701 F.S., relating to short title; definitions.

**Section 3:** Provides an effective date of October 1, 2018.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

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<sup>18</sup> Terri Parker, *Sheriff calls cattle theft largest in Martin County's history*, WPBF News (October 29, 2013), available at: <http://www.wpbf.com/article/sheriff-calls-cattle-theft-largest-in-martin-county-s-history/1319401>.

<sup>19</sup> Id.

<sup>20</sup> Id.

<sup>21</sup> Henry Pierson Curtis, *Former Osceola deputy in jail after being charged with stealing cattle*, Orlando Sentinel (November 11, 2015), available at: <http://www.orlandosentinel.com/news/breaking-news/os-keith-collins-cattle-rustling-osceola-20151106-story.html>.

<sup>22</sup> Associated Press, *6 Arrested in Separate Florida Cattle Thefts; 8 Cows Missing*, US News (June 18, 2017), available at: <https://www.usnews.com/news/best-states/florida/articles/2017-06-18/6-arrested-in-separate-florida-cattle-thefts-8-cows-missing>.

<sup>23</sup> Tex. Code Ann. § 31.03; see also Donnelle Eller, *Stiffer penalties to be sought for livestock theft*, Des Moines Register (September 14, 2014), available at: <https://www.desmoinesregister.com/story/money/agriculture/2014/09/15/livestock-theft-stiffer-penalties/15652857/>.

<sup>24</sup> Donnelle Eller, *Stiffer penalties to be sought for livestock theft*, Des Moines Register (September 14, 2014), available at: <https://www.desmoinesregister.com/story/money/agriculture/2014/09/15/livestock-theft-stiffer-penalties/15652857/>.

<sup>25</sup> OKLA. STAT. tit. 21, § 1716 (2016).

<sup>26</sup> M. Scott Carter, *Under Bill, Tougher Penalties for Cattle Rustling than Assault*, Oklahoma Watch (February 25, 2015) available at: <http://oklahomawatch.org/2015/02/25/house-committee-mulls-new-fine-sentence-for-cattle-rustling/>; see also Associated Press, *Cattle rustling penalties to increase in US*, Reuters News Agency (April 14, 2016), available at: <https://www.producer.com/daily/cattle-rustling-penalties-to-increase-in-us/>.

1. Revenues:

The bill may result in an insignificant, indeterminate positive fiscal impact through collecting increased fines for the theft of a commercially farmed animal or bee colony of a registered beekeeper.

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may result in an insignificant, indeterminate positive fiscal impact through collecting increased fines for the theft of a commercially farmed animal or bee colony of a registered beekeeper.

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The mandatory fine for theft of beehives and cattle may dissuade persons from committing the offense, and protect the property of businesses engaged in beekeeping and raising cattle.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES