

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 Agriculture

BILL: CS/SB 776

INTRODUCER: Criminal Justice Committee and Senator Grimsley

SUBJECT: Theft

DATE: February 12, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Jones</u>	<u>CJ</u>	Fav/CS
2.	<u>Akhavein</u>	<u>Becker</u>	<u>AG</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

PLEASE MAKE SELECTION

I. Summary:

CS/SB 776 amends s. 812.014(2)(c)7., F.S., to increase the fine in felony cases of theft of specified commercially farmed animals and registered bee colonies to \$10,000. Currently the fine is up to \$5,000.

Current law provides for a \$10,000 fine in cases of felony grand theft of aquaculture species raised at a certified aquaculture facility.

The bill is effective October 1, 2018.

II. Present Situation:

Property Theft

Section 812.014, F.S., defines and categorizes thefts into misdemeanor or felony criminal violations. Whether a theft is a misdemeanor or a felony generally depends upon the value of the property taken by the defendant, the defendant's history of theft convictions or, in some cases, the type of property taken.

A person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or use, the property of another with intent to, either temporarily or permanently:

- Deprive the other person of a right to the property or a benefit from the property; or
- Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.¹

Third degree grand theft, a third degree felony,² is theft of:

- Property valued at \$300 or more, but less than \$20,000.
- Specified property including:
 - A will, codicil, or testamentary instrument;
 - A firearm;
 - A motor vehicle;
 - Any commercial farmed animal including any animal of the equine,³ bovine,⁴ or swine⁵ class, or other grazing animal;⁶
 - Any bee colony of a registered beekeeper;⁷
 - Any aquaculture species raised at a certified aquaculture facility;⁸
 - Any fire extinguisher;
 - Any amount of citrus fruit consisting of 2,000 or more individual pieces of fruit;
 - Property taken from a designated, posted construction site;
 - Any stop sign;
 - Anhydrous ammonia; and
 - Any amount of a controlled substance as defined in s. 893.02, F.S.⁹
- Property from a dwelling or its unenclosed curtilage if the property is valued at \$100 or more, but less than \$300.¹⁰

¹ Section 812.014(1), F.S.

² A third degree felony is punishable by up to 5 years' incarceration and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S.

³ "Equine" means a horse or other member of the horse family. The Oxford Dictionaries, available at <https://en.oxforddictionaries.com/definition/equine> (last visited February 12, 2018); *See also* s. 773.01, F.S.: "Equine" means a horse, pony, mule, or donkey.

⁴ "Bovine" means an animal of the cattle group, which also includes buffaloes and bison. The Oxford Dictionaries, available at <https://en.oxforddictionaries.com/definition/bovine> (last visited February 12, 2018).

⁵ "Swine" means pig. The Oxford Dictionaries, available at <https://en.oxforddictionaries.com/definition/swine> (last visited February 12, 2018).

⁶ Grazing animals may include sheep and goats in addition to horses and cattle. *Save Our Magnificent Meadows*, available at http://www.magnificentmeadows.org.uk/assets/pdfs/Types_of_Livestock.pdf (last visited February 12, 2018). *See also* s. 585.01(13), F.S.: "Livestock" means grazing animals, such as cattle, horses, sheep, swine, goats, other hoofed animals, ostriches, emus, and rheas which are raised for private use or commercial purposes.

⁷ Beekeepers are required by the Florida Department of Agriculture and Consumer Services to register and identify their hives. All honey bee hives must be permanently imprinted on the upper left-hand corner in letters at least ½ inch in height with the beekeeper's registration number issued by the department. Florida Department of Agriculture and Consumer Services, *Beekeeper Registration*, available at <https://www.freshfromflorida.com/Business-Services/Bees-Apiary/Beekeeper-Registration> (last visited February 12, 2018).

⁸ The Florida Department of Agriculture and Consumer Services inspects and certifies aquaculture businesses. Aquaculture includes fish, mollusks, and aquatic plants. Florida Department of Agriculture and Consumer Services, *Aquaculture Certification Application Taxonomic Listing and Aquaculture Best Management Practices Manual, November 2016* available at <https://www.freshfromflorida.com/Business-Services/Aquaculture/Aquaculture-Certificate-of-Registration> (last visited February 12, 2018).

⁹ Section 812.014(2)(c), F.S.

¹⁰ Section 812.014(2)(d), F.S.

Currently, s. 812.014(2), F.S., requires that a fine of \$10,000 be imposed for theft of aquaculture species raised at a certified aquaculture facility.¹¹ The fine for theft of a commercially farmed animal or bee colony is a maximum amount of \$5,000, the general fine for a third degree felony offense.¹²

Thefts of Cattle and Beehives in Florida

Theft of cattle has been more prevalent since beef prices have risen since 2012. Yearling cows weighing 600-700 pounds that once sold for around \$600 are now worth \$1,000 to \$1,200, according to Florida Cattlemen's Association Executive Vice President Jim Handley.¹³

A cattle rancher in Martin County was the victim of what the Martin County Sheriff called "the largest cattle rustling scheme in the county's history" in 2013.¹⁴ The man accused of stealing the cattle, taking them to market, and keeping the proceeds was the manager of the ranch. The ranch manager sold 175 cows for a total of \$102,000. The total loss from the theft forced the cattle rancher to discontinue his cattle business.¹⁵

Beekeepers have been the target of theft as well with more than \$100,000 worth of hives stolen in Southwest Florida. One beekeeper who was hit by thieves explained that sometimes entire hives are taken, other times just the queen bee is taken so the thief can use her to begin a new hive.¹⁶

III. Effect of Proposed Changes:

Section 1 amends s. 812.014(2)(c)7., F.S., to increase the fine from up to \$5,000 to \$10,000 in cases of felony theft of a commercially farmed animal, including an animal of the equine, avian,¹⁷ bovine, or swine class or other grazing animal; or a bee colony of a registered beekeeper.

This fine increase puts these agriculture-related thefts on par with aquaculture species theft which currently requires a \$10,000 fine.¹⁸

Section 2 reenacts s. 932.701(2)(a), F.S., to incorporate the amendment made to s. 812.014(2)(c), F.S., by the bill.

¹¹ Section 812.014(2)(c)7, F.S.

¹² Section 812.014(2)(c), F.S.

¹³ *Former Osceola deputy in jail after being charged with stealing cattle*, The Orlando Sentinel, November 11, 2015, available at <http://www.orlandosentinel.com/news/breaking-news/os-keith-collins-cattle-rustling-osceola-20151106-story.html> (last visited February 12, 2018).

¹⁴ *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> (last visited February 12, 2018).

¹⁵ *Id.*

¹⁶ *Beehive theft cases on the rise in SWFL*, NBC-2 WBBH News, August 17, 2016, available at <http://www.nbc-2.com/story/32779137/10000-reward-offered-for> (last visited January 24, 2018); *See also Theft of hives hits southwest Florida bee farmers*, The Orlando Sentinel, August 28, 2016, available at <http://www.orlandosentinel.com/business/os-ap-theft-bee-hive-florida-20160828-story.html> (last visited February 12, 2018).

¹⁷ "Avian" means relating to, or derived from birds. The Merriam-Webster Dictionary, available at <https://www.merriam-webster.com/dictionary/avian> (last visited February 12, 2018).

¹⁸ Section 812.014(2)(c)7, F.S.

Section 3 provides that this act shall take effect October 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may help farmers and ranchers recover a portion of the losses experienced from the thefts of their herds, birds, or bees.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 812.014 of the Florida Statutes.

This bill reenacts section 932.701 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.)

CS by Criminal Justice on January 29, 2018:

The committee substitute includes animals of the avian (bird) species among the commercially farmed animals to which the \$10,000 fine provided for in the bill would apply.

- B. **Amendments:**

None.