

Bill No. CS for SB 1528

Amendment No. Barcode 272510

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Geller moved the following amendment:

Senate Amendment (with title amendment)
Delete everything after the enacting clause

and insert:

Section 1. Section 604.60, Florida Statutes, is created to read:

604.60 Damage or destruction of agricultural crops; civil action.--

(1) Any private, public, or commercial agricultural grower or producer who grows or produces any agricultural product, as defined in s. 468.382(7), 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 federal, state, or local government agency who suffers damages as a result of another person's willful and knowing damage or destruction of any such agricultural product has a cause of action for damages equal to double the amount of the value of the product damaged or destroyed, including the cost

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1 of any experimental product replication, and for any other
2 relief a court of competent jurisdiction deems appropriate,
3 including, but not limited to, compensatory and punitive
4 damages. In awarding damages under this section, the courts
5 shall consider the market value of the product prior to damage
6 or destruction, and production, research, testing,
7 replacement, and product development costs directly related to
8 the product that has been damaged or destroyed as part of the
9 value of the product. The prevailing party in any action
10 brought pursuant to this section is entitled to an award of
11 reasonable attorney's fees and court costs.

12 Section 2. Section 810.09, Florida Statutes, is
13 amended to read:

14 810.09 Trespass on property other than structure or
15 conveyance.--

16 (1)(a) A person who, without being authorized,
17 licensed, or invited, willfully enters upon or remains in any
18 property other than a structure or conveyance:

19 1. As to which notice against entering or remaining is
20 given, either by actual communication to the offender or by
21 posting, fencing, or cultivation as described in s. 810.011;
22 or

23 2. If the property is the unenclosed curtilage of a
24 dwelling and the offender enters or remains with the intent to
25 commit an offense thereon, other than the offense of trespass,
26
27 commits the offense of trespass on property other than a
28 structure or conveyance.

29 (b) As used in this section, the term "unenclosed
30 curtilage" means the unenclosed land or grounds, and any
31 outbuildings, that are directly and intimately adjacent to and

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1 connected with the dwelling and necessary, convenient, and
2 habitually used in connection with that dwelling.

3 (2)(a) Except as provided in this subsection, trespass
4 on property other than a structure or conveyance is a
5 misdemeanor of the first degree, punishable as provided in s.
6 775.082 or s. 775.083.

7 (b) If the offender defies an order to leave,
8 personally communicated to the offender by the owner of the
9 premises or by an authorized person, or if the offender
10 willfully opens any door, fence, or gate or does any act that
11 exposes animals, crops, or other property to waste,
12 destruction, or freedom; unlawfully dumps litter on property;
13 or trespasses on property other than a structure or
14 conveyance, the offender commits a misdemeanor of the first
15 degree, punishable as provided in s. 775.082 or s. 775.083.

16 (c) If the offender is armed with a firearm or other
17 dangerous weapon during the commission of the offense of
18 trespass on property other than a structure or conveyance, he
19 or she is guilty of a felony of the third degree, punishable
20 as provided in s. 775.082, s. 775.083, or s. 775.084. Any
21 owner or person authorized by the owner may, for prosecution
22 purposes, take into custody and detain, in a reasonable
23 manner, for a reasonable length of time, any person when he or
24 she reasonably believes that a violation of this paragraph has
25 been or is being committed, and that the person to be taken
26 into custody and detained has committed or is committing such
27 violation. In the event a person is taken into custody, a law
28 enforcement officer shall be called as soon as is practicable
29 after the person has been taken into custody. The taking into
30 custody and detention in compliance with the requirements of
31 this paragraph does not result in criminal or civil liability

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1 for false arrest, false imprisonment, or unlawful detention.

2 (d) The offender commits a felony of the third degree,
3 punishable as provided in s. 775.082, s. 775.083, or s.
4 775.084, if the property trespassed is a construction site
5 that is legally posted and identified in substantially the
6 following manner: "THIS AREA IS A DESIGNATED CONSTRUCTION
7 SITE, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A
8 FELONY."

9 (e) The offender commits a felony of the third degree,
10 punishable as provided in s. 775.082, s. 775.083, or s.
11 775.084, if the property trespassed upon is commercial
12 horticulture property and the property is legally posted and
13 identified in substantially the following manner: "THIS AREA
14 IS DESIGNATED COMMERCIAL PROPERTY FOR HORTICULTURE PRODUCTS,
15 AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

16 (f) The offender commits a felony of the third degree,
17 punishable as provided in s. 775.082, s. 775.083, or s.
18 775.084, if the property trespassed upon is an agricultural
19 site for testing or research purposes that is legally posted
20 and identified in substantially the following manner: "THIS
21 AREA IS A DESIGNATED AGRICULTURAL SITE FOR TESTING OR RESEARCH
22 PURPOSES, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A
23 FELONY."

24 (g)(f) Any person who in taking or attempting to take
25 any animal described in s. 372.001(3) or (4), or in killing,
26 attempting to kill, or endangering any animal described in s.
27 585.01(13) knowingly propels or causes to be propelled any
28 potentially lethal projectile over or across private land
29 without authorization commits trespass, a felony of the third
30 degree, punishable as provided in s. 775.082, s. 775.083, or
31 s. 775.084. For purposes of this paragraph, the term

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1 "potentially lethal projectile" includes any projectile
 2 launched from any firearm, bow, crossbow, or similar tensile
 3 device. This section shall not apply to any governmental
 4 agent or employee acting within the scope of his or her
 5 official duties.

6 (3) As used in this section, the term "authorized
 7 person" or "person authorized" means any owner, or his or her
 8 agent, or any law enforcement officer whose department has
 9 received written authorization from the owner, or his or her
 10 agent, to communicate an order to leave the property in the
 11 case of a threat to public safety or welfare.

12 Section 3. For the purpose of incorporating the
 13 amendment to section 810.09, Florida Statutes, in references
 14 thereto, paragraph (b) of subsection (5) of section 260.0125,
 15 Florida Statutes, is reenacted to read:

16 260.0125 Limitation on liability of private landowners
 17 whose property is designated as part of the statewide system
 18 of greenways and trails.--

19 (5)

20 (b) Such notices must comply with s. 810.011(5) and
 21 shall constitute a warning to unauthorized persons to remain
 22 off the private property and not to depart from the designated
 23 greenway or trail. Any person who commits such an unauthorized
 24 entry commits a trespass as provided in s. 810.09.

25 Section 4. For the purpose of incorporating the
 26 amendment to section 810.09, Florida Statutes, in references
 27 thereto, paragraph (b) of subsection (5) of section 810.011,
 28 Florida Statutes, is reenacted to read:

29 810.011 Definitions.--As used in this chapter:

30 (5)

31 (b) It shall not be necessary to give notice by

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1 posting on any enclosed land or place not exceeding 5 acres in
2 area on which there is a dwelling house in order to obtain the
3 benefits of ss. 810.09 and 810.12 pertaining to trespass on
4 enclosed lands.

5 Section 5. This act shall take effect October 1, 2001.

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8 ===== T I T L E A M E N D M E N T =====

9 And the title is amended as follows:

10 Delete everything before the enacting clause

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12 and insert:

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A bill to be entitled

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An act relating to damage or destruction of

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agricultural products; creating s. 604.60,

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F.S.; providing that certain agricultural

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growers or producers shall have a right to

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recover damages as a result of willful and

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knowing damage or destruction of specified

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agricultural products; providing considerations

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and limits in award of damages; providing for

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costs and attorney's fees; amending s. 810.09,

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F.S.; prohibiting trespass upon specified

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legally posted agricultural sites; providing a

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penalty; reenacting ss. 260.0125(5)(b) and

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810.011(5)(b), F.S., to incorporate the

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amendment to s. 810.09, F.S., in references

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thereto; providing an effective date.

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