

By Senators Geller, Mitchell, Bronson and Peaden

29-1264-01

See HB

1                                   A bill to be entitled  
2           An act relating to damage or destruction of  
3           agricultural products; creating s. 604.60,  
4           F.S.; providing that certain agricultural  
5           growers or producers shall have a right to  
6           recover damages as a result of willful and  
7           knowing damage or destruction of specified  
8           agricultural field crops; providing  
9           considerations and limits in award of damages;  
10          providing for costs and attorney's fees;  
11          amending s. 810.09, F.S.; prohibiting trespass  
12          upon specified legally posted agricultural  
13          sites; providing a penalty; reenacting ss.  
14          260.0125(5)(b) and 810.011(5)(b), F.S., to  
15          incorporate the amendment to s. 810.09, F.S.,  
16          in references thereto; providing an effective  
17          date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

20  
21           Section 1. Section 604.60, Florida Statutes, is  
22          created to read:

23           604.60 Damage or destruction of agricultural crops;  
24          civil action.--

25           (1) Any private or commercial agricultural grower or  
26          producer who grows or produces any agricultural field crop for  
27          personal or commercial purposes or for testing or research  
28          purposes in a product development program conducted in  
29          conjunction or coordination with a private research facility,  
30          a university, or any federal, state, or local government  
31          agency who suffers damages as a result of another person's

1 willful and knowing damage or destruction of any such  
2 agricultural field crop has a cause of action for damages  
3 equal to double the amount of the value of the crop damaged or  
4 destroyed and for any other relief a court of competent  
5 jurisdiction deems appropriate, including, but not limited to,  
6 compensatory and punitive damages. In awarding damages under  
7 this section, the courts shall consider the market value of  
8 the crop prior to damage or destruction, and production,  
9 research, testing, replacement, and crop development costs  
10 directly related to the crop that has been damaged or  
11 destroyed as part of the value of the crop. Damages available  
12 under this section shall be limited to twice the market value  
13 of the crop prior to damage or destruction plus twice the  
14 actual damages involving production, research, testing,  
15 replacement, and crop development costs directly related to  
16 the crop that has been damaged or destroyed. The prevailing  
17 party in any action brought pursuant to this section is  
18 entitled to an award of reasonable attorney's fees and court  
19 costs.

20 Section 2. Section 810.09, Florida Statutes, is  
21 amended to read:

22 810.09 Trespass on property other than structure or  
23 conveyance.--

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

27 1. As to which notice against entering or remaining is  
28 given, either by actual communication to the offender or by  
29 posting, fencing, or cultivation as described in s. 810.011;  
30 or  
31

1           2. If the property is the unenclosed curtilage of a  
2 dwelling and the offender enters or remains with the intent to  
3 commit an offense thereon, other than the offense of trespass,  
4  
5 commits the offense of trespass on property other than a  
6 structure or conveyance.

7           (b) As used in this section, the term "unenclosed  
8 curtilage" means the unenclosed land or grounds, and any  
9 outbuildings, that are directly and intimately adjacent to and  
10 connected with the dwelling and necessary, convenient, and  
11 habitually used in connection with that dwelling.

12           (2)(a) Except as provided in this subsection, trespass  
13 on property other than a structure or conveyance is a  
14 misdemeanor of the first degree, punishable as provided in s.  
15 775.082 or s. 775.083.

16           (b) If the offender defies an order to leave,  
17 personally communicated to the offender by the owner of the  
18 premises or by an authorized person, or if the offender  
19 willfully opens any door, fence, or gate or does any act that  
20 exposes animals, crops, or other property to waste,  
21 destruction, or freedom; unlawfully dumps litter on property;  
22 or trespasses on property other than a structure or  
23 conveyance, the offender commits a misdemeanor of the first  
24 degree, punishable as provided in s. 775.082 or s. 775.083.

25           (c) If the offender is armed with a firearm or other  
26 dangerous weapon during the commission of the offense of  
27 trespass on property other than a structure or conveyance, he  
28 or she is guilty of a felony of the third degree, punishable  
29 as provided in s. 775.082, s. 775.083, or s. 775.084. Any  
30 owner or person authorized by the owner may, for prosecution  
31 purposes, take into custody and detain, in a reasonable

1 manner, for a reasonable length of time, any person when he or  
2 she reasonably believes that a violation of this paragraph has  
3 been or is being committed, and that the person to be taken  
4 into custody and detained has committed or is committing such  
5 violation. In the event a person is taken into custody, a law  
6 enforcement officer shall be called as soon as is practicable  
7 after the person has been taken into custody. The taking into  
8 custody and detention in compliance with the requirements of  
9 this paragraph does not result in criminal or civil liability  
10 for false arrest, false imprisonment, or unlawful detention.

11 (d) The offender commits a felony of the third degree,  
12 punishable as provided in s. 775.082, s. 775.083, or s.  
13 775.084, if the property trespassed is a construction site  
14 that is legally posted and identified in substantially the  
15 following manner: "THIS AREA IS A DESIGNATED CONSTRUCTION  
16 SITE, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A  
17 FELONY."

18 (e) The offender commits a felony of the third degree,  
19 punishable as provided in s. 775.082, s. 775.083, or s.  
20 775.084, if the property trespassed upon is commercial  
21 horticulture property and the property is legally posted and  
22 identified in substantially the following manner: "THIS AREA  
23 IS DESIGNATED COMMERCIAL PROPERTY FOR HORTICULTURE PRODUCTS,  
24 AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

25 (f) The offender commits a felony of the third degree,  
26 punishable as provided in s. 775.082, s. 775.083, or s.  
27 775.084, if the property trespassed upon is an agricultural  
28 site for testing or research purposes as described in s.  
29 604.60 that is legally posted and identified in substantially  
30 the following manner: "THIS AREA IS A DESIGNATED AGRICULTURAL  
31

1 SITE FOR TESTING OR RESEARCH PURPOSES, AND ANYONE WHO  
2 TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

3 (g)~~(f)~~ Any person who in taking or attempting to take  
4 any animal described in s. 372.001(3) or (4), or in killing,  
5 attempting to kill, or endangering any animal described in s.  
6 585.01(13) knowingly propels or causes to be propelled any  
7 potentially lethal projectile over or across private land  
8 without authorization commits trespass, a felony of the third  
9 degree, punishable as provided in s. 775.082, s. 775.083, or  
10 s. 775.084. For purposes of this paragraph, the term  
11 "potentially lethal projectile" includes any projectile  
12 launched from any firearm, bow, crossbow, or similar tensile  
13 device. This section shall not apply to any governmental  
14 agent or employee acting within the scope of his or her  
15 official duties.

16 (3) As used in this section, the term "authorized  
17 person" or "person authorized" means any owner, or his or her  
18 agent, or any law enforcement officer whose department has  
19 received written authorization from the owner, or his or her  
20 agent, to communicate an order to leave the property in the  
21 case of a threat to public safety or welfare.

22 Section 3. For the purpose of incorporating the  
23 amendment to section 810.09, Florida Statutes, in references  
24 thereto, paragraph (b) of subsection (5) of section 260.0125,  
25 Florida Statutes, and paragraph (b) of subsection (5) of  
26 section 810.011, Florida Statutes, are reenacted to read:

27 260.0125 Limitation on liability of private landowners  
28 whose property is designated as part of the statewide system  
29 of greenways and trails.--

30 (5)

31

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

6 810.011 Definitions.--As used in this chapter:

7 (5)

8 (b) It shall not be necessary to give notice by  
9 posting on any enclosed land or place not exceeding 5 acres in  
10 area on which there is a dwelling house in order to obtain the  
11 benefits of ss. 810.09 and 810.12 pertaining to trespass on  
12 enclosed lands.

13 Section 4. This act shall take effect upon becoming a  
14 law.

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17 LEGISLATIVE SUMMARY

18 Provides that any private or commercial agricultural  
19 grower or producer who grows or produces any agricultural  
20 field crop for personal or commercial purposes or for  
21 testing or research purposes in a product development  
22 program conducted in conjunction or coordination with a  
23 private research facility, a university, or any federal,  
24 state, or local government agency who suffers damages as  
25 a result of another person's willful and knowing damage  
26 or destruction of such crop may bring an action for  
27 damages for twice the value of the crop damaged or  
28 destroyed. Provides considerations and limits in award  
29 of damages. Provides for costs and attorney's fees.

30 Provides that trespass upon agricultural sites legally  
31 posted and identified as being used for research and  
testing purposes is a third-degree felony.