

By the Committee on Agriculture & Consumer Affairs and
 Representatives Stansel, Spratt, Alexander, Kendrick, Gibson,
 Bowen and Kottkamp

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 products; providing considerations
 9 and limits in award of damages; providing for
 10 costs and attorney's fees; amending s. 810.09,
 11 F.S.; prohibiting trespass upon specified
 12 legally posted agricultural sites; providing a
 13 penalty; reenacting ss. 260.0125(5)(b) and
 14 810.011(5)(b), F.S., to incorporate the
 15 amendment to s. 810.09, F.S., in references
 16 thereto; providing an effective date.

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

19
 20 Section 1. Section 604.60, Florida Statutes, is
 21 created to read:

22 604.60 Damage or destruction of agricultural crops;
 23 civil action.--

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

1 any such agricultural product has a cause of action for
2 damages equal to double the amount of the value of the product
3 damaged or destroyed, for cost of any experimental product
4 replication, 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 product prior to damage or destruction, and production,
9 research, testing, replacement, and product development costs
10 directly related to the product that has been damaged or
11 destroyed as part of the value of the product. Damages
12 available under this section shall be limited to twice the
13 market value of the product prior to damage or destruction
14 plus twice the actual damages involving production, research,
15 testing, replacement, and product development costs directly
16 related to the product that has been damaged or destroyed.
17 The prevailing party in any action brought pursuant to this
18 section is entitled to an award of reasonable attorney's fees
19 and court 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, the sections or subdivisions of Florida Statutes set
25 forth below are reenacted to read:

26 260.0125 Limitation on liability of private landowners
27 whose property is designated as part of the statewide system
28 of greenways and trails.--

29 (5)

30 (b) Such notices must comply with s. 810.011(5) and
31 shall constitute a warning to unauthorized persons to remain

1 off the private property and not to depart from the designated
2 greenway or trail. Any person who commits such an unauthorized
3 entry commits a trespass as provided in s. 810.09.

4 810.011 Definitions.--As used in this chapter:

5 (5)

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

11 Section 4. This act shall take effect upon becoming a
12 law.

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