

By the Council for Competitive Commerce and 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.

17  
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, as defined in s. 468.382(7), for personal, research,  
27           or commercial purposes or for testing or research purposes in  
28           a product development program conducted in conjunction or  
29           coordination with a private research facility, a university,  
30           or any federal, state, or local government agency who suffers  
31           damages as a result of another person's willful and knowing

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

15 Section 2. Section 810.09, Florida Statutes, is  
16 amended to read:

17 810.09 Trespass on property other than structure or  
18 conveyance.--

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

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

26 2. If the property is the unenclosed curtilage of a  
27 dwelling and the offender enters or remains with the intent to  
28 commit an offense thereon, other than the offense of trespass,  
29  
30 commits the offense of trespass on property other than a  
31 structure or conveyance.

1 (b) As used in this section, the term "unenclosed  
2 curtilage" means the unenclosed land or grounds, and any  
3 outbuildings, that are directly and intimately adjacent to and  
4 connected with the dwelling and necessary, convenient, and  
5 habitually used in connection with that dwelling.

6 (2)(a) Except as provided in this subsection, trespass  
7 on property other than a structure or conveyance is a  
8 misdemeanor of the first degree, punishable as provided in s.  
9 775.082 or s. 775.083.

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

19 (c) If the offender is armed with a firearm or other  
20 dangerous weapon during the commission of the offense of  
21 trespass on property other than a structure or conveyance, he  
22 or she is guilty of a felony of the third degree, punishable  
23 as provided in s. 775.082, s. 775.083, or s. 775.084. Any  
24 owner or person authorized by the owner may, for prosecution  
25 purposes, take into custody and detain, in a reasonable  
26 manner, for a reasonable length of time, any person when he or  
27 she reasonably believes that a violation of this paragraph has  
28 been or is being committed, and that the person to be taken  
29 into custody and detained has committed or is committing such  
30 violation. In the event a person is taken into custody, a law  
31 enforcement officer shall be called as soon as is practicable

1 after the person has been taken into custody. The taking into  
2 custody and detention in compliance with the requirements of  
3 this paragraph does not result in criminal or civil liability  
4 for false arrest, false imprisonment, or unlawful detention.

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

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

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

27 (g)~~(f)~~ Any person who in taking or attempting to take  
28 any animal described in s. 372.001(3) or (4), or in killing,  
29 attempting to kill, or endangering any animal described in s.  
30 585.01(13) knowingly propels or causes to be propelled any  
31 potentially lethal projectile over or across private land

1 without authorization commits trespass, a felony of the third  
2 degree, punishable as provided in s. 775.082, s. 775.083, or  
3 s. 775.084. For purposes of this paragraph, the term  
4 "potentially lethal projectile" includes any projectile  
5 launched from any firearm, bow, crossbow, or similar tensile  
6 device. This section shall not apply to any governmental  
7 agent or employee acting within the scope of his or her  
8 official duties.

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

15 Section 3. For the purpose of incorporating the  
16 amendment to section 810.09, Florida Statutes, in references  
17 thereto, the sections or subdivisions of Florida Statutes set  
18 forth below are reenacted to read:

19 260.0125 Limitation on liability of private landowners  
20 whose property is designated as part of the statewide system  
21 of greenways and trails.--

22 (5)

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

28 810.011 Definitions.--As used in this chapter:

29 (5)

30 (b) It shall not be necessary to give notice by  
31 posting on any enclosed land or place not exceeding 5 acres in

1 area on which there is a dwelling house in order to obtain the  
2 benefits of ss. 810.09 and 810.12 pertaining to trespass on  
3 enclosed lands.

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

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