

STORAGE NAME: h1119s1z.jo.doc
DATE: May 6, 2002

****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 2002-83, Laws of Florida

**HOUSE OF REPRESENTATIVES
COMMITTEE ON JUDICIAL OVERSIGHT
FINAL ANALYSIS**

BILL #: CS/HB 1119, 1ST ENG. (IDENTICAL PROVISIONS PASSED IN CS/SB 1772, 1ST ENG.)

RELATING TO: Agriculture/Crop Damage/Destruction

SPONSOR(S): Council for Smarter Government; Representatives Heyman, Kendrick, and others

TIED BILL(S): none

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) JUDICIAL OVERSIGHT YEAS 10 NAYS 0
- (2) AGRICULTURE & CONSUMER AFFAIRS YEAS 9 NAYS 0
- (3) COUNCIL FOR SMARTER GOVERNMENT YEAS 14 NAYS 0
- (4)
- (5)

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

Current law provides to a grower or producer of agricultural products a civil cause of action for double damages, plus costs and attorney's fees, against any person who willfully and knowingly destroys those agricultural products.

This act adds agricultural production systems to this civil cause of action; and increases the damages award from double to triple the amount of the value of the product or system damaged or destroyed.

This act does not appear to have a fiscal impact on state or local governments.

On March 20, 2002, CS/HB 1119 was laid on the table and CS/SB 1772, 1st Engrossed, was substituted for CS/HB 1119. CS/SB 1772, 1st Engrossed, which contains identical provisions, became law on April 23, 2002, as Chapter Law 2002-83, Laws of Florida (the "act"). The effective date of this act is October 1, 2002. This analysis, with certain exceptions, is of Chapter 2002-83, Laws of Florida. The exceptions are those sections that address the House bill, which are clearly identified.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

This act expands a civil cause of action.

B. PRESENT SITUATION:

Under the common law, a property owner may be awarded money damages from any person who has damaged or destroyed the owner's property. If the damage or destruction was accidental, the property owner is entitled to the cost of repair, limited to the total value of the property, plus consequential damages. Court costs are recoverable, but attorney's fees are not. If the property owner can prove that the damage or destruction was intentional, the property owner may, in limited circumstances, be awarded punitive damages.

Section 604.60, F.S. provides a civil cause of action to a grower or producer of agricultural products against a person who willfully and knowingly destroys agricultural products belonging to the grower or producer. It provides that any private, public, or commercial agricultural grower or producer who grows or produces any agricultural product 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 civil cause of action for damages.

Damages awarded under s. 604.60, F.S. include an amount equal to double the amount of the value of the product damaged or destroyed, including the cost of any experimental product replication. The court may also award compensatory and punitive damages. However, the total damages awarded is twice the market value of the product prior to damage or destruction plus twice the actual damages involving production, research, testing, replacement, and product development costs directly related to the product that has been damaged or destroyed. The prevailing party is entitled to court costs and reasonable attorney's fees.

C. EFFECT OF PROPOSED CHANGES:

This act removes the cross-reference to "agricultural products" in s. 468.382(7), F.S. The definition from s. 468.382(7), F.S., is added verbatim into s. 604.60, F.S. The term "agricultural product" is thus defined to mean the "natural products from a farm, nursery, grove, orchard, vineyard, garden, or apiary, including livestock, tobacco, and vegetables, and includes aquacultural, horticultural, viticultural, forestry, aquatic, dairy, livestock, poultry, bee, and any farm products."

This act provides that a cause of action under s. 604.60, F.S. may also be pursued for damage or destruction to an "agricultural production system", which is defined to mean "land, buildings, or equipment used in the production of any agricultural product".

This act increases the damages award to triple the amount of the value of the agricultural product or agricultural production system damaged or destroyed.

This act provides an effective date of October 1, 2002.

D. SECTION-BY-SECTION ANALYSIS:

See "Present Situation" and "Effect of Proposed Changes."

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This act increases the amount of damages, from double to triple the value of the loss, that growers and producers of agricultural products could potentially recover for damage to their agriculture products or agricultural production system if such are willfully damaged or destroyed.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This act does not require counties or municipalities to expend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This act does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This act does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

HB 1119

On February 12, 2002, the Committee on Judicial Oversight adopted 1 amendment to this bill. The amendment limits the applicability of the exemption from liability for the state or state agency, to s. 604.60, F.S. The bill was then reported favorably, as amended.

On February 20, 2002, the Committee on Agriculture and Consumer Affairs adopted 1 amendment to HB 1119. The amendment limits the applicability of the exemption from cause of action for the state or state agency, to s. 604.60, F.S. The bill was then reported favorably, as amended.

On February 26, 2002, the Council for Smarter Government adopted a council substitute that incorporated the traveling amendments. The bill was then reported favorably, as a committee substitute.

SB 1772

On February 26, 2002, the Committee on Judiciary amended the bill. The amendment removed from the bill the subsection that provides immunity to governmental entities from causes of action under s. 604.60, F.S. The bill was then reported favorably, as amended.

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VII. SIGNATURES:

COMMITTEE ON JUDICIAL OVERSIGHT:

Prepared by:

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AS REVISED BY THE COMMITTEE ON AGRICULTURE & CONSUMER AFFAIRS:

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AS FURTHER REVISED BY THE COUNCIL FOR SMARTER GOVERNMENT:

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FINAL ANALYSIS PREPARED BY THE COMMITTEE ON JUDICIAL OVERSIGHT:

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