

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

A person that trespasses onto property that is a construction site is guilty of a third degree felony.¹ In order to be found guilty of trespassing on property that is a construction site, the state must prove beyond a reasonable doubt that the property was both "legally posted" and identified in substantially the following manner:

"THIS AREA IS A DESIGNATED CONSTRUCTION SITE, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY"²

Section 810.011(5), F.S., provides that "legally posted" land requires signs placed not more than 500 feet apart along, and at each corner of, the boundaries of the land. The signs must prominently display, in letters of not less than 2 inches in height, the words "no trespassing" and the name of the owner, lessee, or occupant of the land. The "no trespassing" signs must be placed along the boundary line of the land in a manner and in such position as to be clearly noticeable from outside the boundary line. Under current law, the owner of land that is a construction site must post signs that say "no trespassing" as required in s. 810.011(5), F.S., and must post an additional sign designating the property as a construction site as required in s. 810.09(2)(d), F.S.

Effect of Bill

This bill amends the definition of "posted land" in s. 810.011(5), F.S., to provide that if the property is a construction site less than one acre in area, only one "no trespassing" sign is required, and the sign must be placed at the location of the permits for the construction. However, under this bill, the owner of land that is a construction site would still be required to post the sign designating the property as a construction site, as required under s. 810.09(2)(d), F.S.

This bill also creates s. 810.011(13), F.S., to provide a definition for a "construction site". This bill provides that a construction site is any property where there is construction that is subject to building permit posting requirements. Section 105.1 of the Florida Building Code provides that any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, must first make application to the building official and obtain the required permit. Section 105.7 of the Florida Building Code provides that permit or copy thereof must be kept on the site of the work until the completion of the project. Therefore, a construction site as defined in this bill would include land where any of the activities described above in s. 105.1 of the Florida Building Code are occurring.

¹ Sections 775.082 and 775.083, F.S., provide that a third degree felony is punishable by a term of imprisonment not exceeding 5 years and a fine not to exceed \$5,000.

² Section 810.09(2)(d), F.S.

C. SECTION DIRECTORY:

Section 1 amends s. 810.011, F.S., relating to the definition of "posted land" and "construction site".

Section 2 provides an effective date of July 1, 2007.

II. 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:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

If the intent of this bill is to require an owner of land that is a construction site and less than one acre in size to only have to post one sign designating the land as a construction site, then the bill appears to need amending.

D. STATEMENT OF THE SPONSOR

HB 1185 responds to the rising incidence of construction site theft. The legislation was brought forward by the Southwest Florida Police Chiefs Association. The association reports that construction site burglaries and thefts account for more than 30% of reported property crimes, and are increasing in a rapid manner. Most construction is occurring on parcels less than one acre in size for which the current posting requirements are cumbersome and impractical, making trespass on a construction site difficult to enforce and prosecute. HB 1185 amends a "rural land statute" to create a logical, single-sign posting requirement on construction sites that are less than one acre in size. Approval of this bill should lead to greater posting compliance and provide law enforcement greater ability to enforce trespass on construction sites and pre-empt theft.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 14, 2007, the Committee on Courts adopted one amendment to this bill. The amendment provided that, in order for a person to be found guilty of trespass on a construction site of one acre or less in area, there must be one sign on the property that designates the property as a construction site and that trespassing on the property is a felony. The amendment also provided size requirements for the lettering on the sign, and that the sign must be placed at the location on the property where the permits for construction are located.

The bill was then reported favorably with an amendment.