

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 1185    Trespass  
**SPONSOR(S):** Aubuchon  
**TIED BILLS:** None    **IDEN./SIM. BILLS:** SB 2180

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Courts</u>	<u>5 Y, 0 N</u>	<u>Blalock</u>	<u>Bond</u>
2) <u>Safety &amp; Security Council</u>	<u>15 Y, 0 N, As CS</u>	<u>Blalock</u>	<u>Havlicak</u>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

**SUMMARY ANALYSIS**

Trespass onto property that is a construction site is a third degree felony. In order for a person to be guilty of trespassing on a construction site, the property owner must follow the posting requirements provided in current law, regardless of the size of the construction site.

This bill provides that in order for a person to be found guilty of trespassing on a construction site of one acre or less in area, the property owner must post one sign designating the property as a construction site and that trespassing on the property is a felony. This bill also provides 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. Property owners will no longer be required to post additional "no trespassing" signs where the property is a construction site one acre or less in area. Construction sites that are greater than one acre in area must still follow current trespass law.

This bill also defines "construction site", as it relates to trespass law, to mean any property where there is construction that is subject to building permit posting requirements.

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

## 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.<sup>1</sup> 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"<sup>2</sup>

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 creates a definition for "construction site" in s. 810.011, F.S., providing that a "construction site" is any property upon which 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. 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.

This bill amends s. 810.09(2)(d), F.S., to provide that a person commits a felony of the third degree if the land trespassed on is a construction site of one acre or less in area and is identified as such with a sign with letters at least two inches in height and reads in substantially the following manner:

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

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<sup>1</sup> 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.

<sup>2</sup> Section 810.09(2)(d), F.S.

This bill also provides that the sign must be placed at the location on the property where the permits for construction are located.

The owner of a construction site that is one acre or less in area will no longer be required to give additional notice by posting "no trespassing" signs as described in s. 810.011(5), F.S. Construction sites that are greater than one acre will still be required to follow current trespass law, and post both the requisite "no trespassing" signs and the sign giving notice that the property is a designated construction site.

C. SECTION DIRECTORY:

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

Section 2 amends s. 810.09, F.S., relating to trespassing on a construction site.

Section 3 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:

None

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.

The chair of the Safety & Security Council chose not to submit any further comments regarding the council substitute.

**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.

On April 11, 2007, the Safety & Security Council reported the bill favorably with a council substitute. This analysis is drafted to the council substitute.