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CS/HB 1427, Engrossed 2

2007 Legislature

1 A bill to be entitled
 2 An act relating to agriculture; creating ss. 570.96-
 3 570.962, F.S., relating to agritourism; authorizing the
 4 Department of Agriculture and Consumer Services to assist
 5 specified entities in agritourism promotion and marketing
 6 initiatives; providing definitions; specifying the impact
 7 of agritourism participation on certain land
 8 classifications; requiring local governments and
 9 agricultural representatives to meet to discuss
 10 agritourism; prescribing duties of the Department of
 11 Agriculture and Consumer Services with respect to purchase
 12 and sale of horses; requiring rules; providing that
 13 provision does not apply to certain sales; creating s.
 14 810.125, F.S.; limiting liability for injury to certain
 15 trespassers on agricultural property; amending s. 810.011,
 16 F.S.; revising the definition of "posted land" to provide
 17 an alternative method of posting; amending s. 810.10,
 18 F.S.; increasing criminal penalties for certain offenses
 19 relating to notices on posted land; amending s. 810.115,
 20 F.S.; increasing criminal penalties for certain offenses
 21 relating to breaking or injuring fences; providing an
 22 effective date.

23
 24 Be It Enacted by the Legislature of the State of Florida:

25
 26 Section 1. Sections 570.96, 570.961, and 570.962, Florida
 27 Statutes, are created to read:

28 570.96 Agritourism.--The Department of Agriculture and

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29 Consumer Services may provide marketing advice, technical
 30 expertise, promotional support, and product development related
 31 to agritourism to assist the following in their agritourism
 32 initiatives: the Florida Commission on Tourism; convention and
 33 visitor bureaus; tourist development councils; economic
 34 development organizations; and local governments. In carrying
 35 out this responsibility, the department shall focus its
 36 agritourism efforts on rural and urban communities.

37 570.961 Definitions.--As used in ss. 570.96-570.962, the
 38 term:

39 (1) "Agritourism activity" means any activity carried out
 40 on a farm or ranch or in a forest that allows members of the
 41 general public, for recreational, entertainment, or educational
 42 purposes, to view or enjoy rural activities, including farming,
 43 ranching, historical, cultural, harvest-your-own, or nature-
 44 based activities and attractions. An activity is an agritourism
 45 activity whether or not the participant paid to participate in
 46 the activity.

47 (2) "Agritourism professional" means any person who is
 48 engaged in the business of providing one or more agritourism
 49 activities, whether or not for compensation.

50 (3) "Farm" means the land, buildings, support facilities,
 51 machinery, and other appurtenances used in the production of
 52 farm or aquaculture products, including land used to display
 53 plants, animals, farm products, or farm equipment to the public.

54 (4) "Farm operation" has the same meaning as defined in s.
 55 823.14.

56 570.962 Agritourism participation impact on land

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57 classification.--

58 (1) In order to promote and perpetuate agriculture
 59 throughout the state, farm operations are encouraged to engage
 60 in agritourism. The conduct of agritourism activity on a bona
 61 fide farm or on agricultural lands classified as such pursuant
 62 to s. 193.461 shall not limit, restrict, or divest the land of
 63 that classification.

64 (2) Local governments and agricultural representatives
 65 shall meet for the purpose of discussing the benefits of
 66 agritourism to local economies and opportunities for
 67 cooperation, conflict resolution, regulatory streamlining, and
 68 incentives.

69 Section 2. (1) The Department of Agriculture and Consumer
 70 Services shall examine the conditions surrounding the sale and
 71 purchase of horses and shall adopt rules pursuant to ss.
 72 120.536(1) and 120.54, Florida Statutes, to prevent unfair or
 73 deceptive trade practices. Vertical integration of services and
 74 employees, in and of itself, shall not be considered an unfair
 75 or deceptive practice. The department's examination shall
 76 include the following: the disclosure of the legal owner and
 77 buyer of the horse and any dual agency to the buyer and seller;
 78 the disclosure of relevant medical conditions, defects, and
 79 surgeries; the conduct or alterations that could affect the
 80 performance of a horse; and the need for a written bill of sale
 81 or similar documentation.

82 (2) This provision shall not apply to sales resulting from
 83 claiming races at licensed pari-mutuel facilities.

84 Section 3. Section 810.125, Florida Statutes, is created

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85 to read:

86 810.125 Injury to certain trespassers on agricultural
 87 land; recovery limited.--A person or organization owning,
 88 controlling, or possessing an interest in agricultural real
 89 property, or an agent of such person or organization, shall not
 90 be held liable for negligence related to such property that
 91 results in the death of, injury to, or damage to a person who
 92 has engaged or is engaging in conduct on the property that is
 93 unlawful under either s. 810.10 or s. 810.115 or unlawful
 94 trespassing by such person incident to such conduct on the
 95 property.

96 Section 4. Subsection (5) of section 810.011, Florida
 97 Statutes, is amended to read:

98 810.011 Definitions.--As used in this chapter:

99 (5) (a) "Posted land" is that land upon which:

100 1. Signs are placed not more than 500 feet apart along,
 101 and at each corner of, the boundaries of the land, upon which
 102 signs there appears prominently, in letters of not less than 2
 103 inches in height, the words "no trespassing" and in addition
 104 thereto the name of the owner, lessee, or occupant of said land.
 105 Said signs shall be placed along the boundary line of posted
 106 land in a manner and in such position as to be clearly
 107 noticeable from outside the boundary line; ~~or-~~

108 2.a. Conspicuous no trespassing notice is painted on trees
 109 or posts on the property, provided that the notice is:

110 (I) Painted in an international orange color and
 111 displaying the stenciled words "No Trespassing" in letters no
 112 less than 2 inches high and 1 inch wide either vertically or

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113 horizontally;
 114 (II) Placed so that the bottom of the painted notice is
 115 not less than 3 feet from the ground or more than 5 feet from
 116 the ground; and
 117 (III) Placed at locations that are readily visible to any
 118 person approaching the property and no more than 500 feet apart
 119 on agricultural land.
 120 b. Beginning October 1, 2007, when a landowner uses the
 121 painted no trespassing posting to identify a "no trespassing"
 122 area, those painted notices shall be accompanied by signs
 123 complying with subparagraph 1. and placed conspicuously at all
 124 places where entry to the property is normally expected or known
 125 to occur.
 126 (b) It shall not be necessary to give notice by posting on
 127 any enclosed land or place not exceeding 5 acres in area on
 128 which there is a dwelling house in order to obtain the benefits
 129 of ss. 810.09 and 810.12 pertaining to trespass on enclosed
 130 lands.
 131 Section 5. Section 810.10, Florida Statutes, is amended to
 132 read:
 133 810.10 Posted land; removing notices unlawful; penalty.--
 134 (1) It is unlawful for any person to willfully remove,
 135 destroy, mutilate, or commit any act designed to remove,
 136 mutilate, or reduce the legibility or effectiveness of any
 137 posted notice placed by the owner, tenant, lessee, or occupant
 138 of legally enclosed or legally posted land pursuant to any law
 139 of this state for the purpose of legally enclosing the same.
 140 (2) Any person violating the provisions of this section

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141 commits ~~shall be guilty of~~ a misdemeanor of the first ~~second~~
 142 degree, punishable as provided in s. 775.082 or s. 775.083.

143 Section 6. Subsection (1) of section 810.115, Florida
 144 Statutes, is amended to read:

145 810.115 Breaking or injuring fences.--

146 (1) Whoever willfully and maliciously breaks down, mars,
 147 injures, defaces, cuts, or otherwise creates or causes to be
 148 created an opening, gap, interruption, or break in any fence, or
 149 any part thereof, belonging to or enclosing land not his or her
 150 own, or whoever causes to be broken down, marred, injured,
 151 defaced, or cut any fence belonging to or enclosing land not his
 152 or her own, commits a misdemeanor of the first degree,
 153 punishable as provided in s. 775.082 or s. 775.083. A person who
 154 commits a second or subsequent offense under this subsection
 155 commits a felony of the third degree, punishable as provided in
 156 s. 775.082, s. 775.083, or s. 775.084.

157 Section 7. This act shall take effect upon becoming a law.