By Senator Oelrich

17-1310-07 See HB 553

1 A bill to be entitled 2 An act relating to trespass; amending s. 3 768.075, F.S.; revising provisions relating to 4 immunity from liability for injuries to 5 trespassers; amending s. 810.10, F.S.; 6 increasing criminal penalties for certain 7 offenses relating to notices on posted land; amending s. 810.115, F.S.; increasing criminal 8 9 penalties for certain offenses relating to 10 breaking or injuring fences; providing an effective date. 11 12 13 Be It Enacted by the Legislature of the State of Florida: 14 Section 1. Subsection (1) and paragraph (b) of 15 subsection (3) of section 768.075, Florida Statutes, are 16 amended to read: 768.075 Immunity from liability for injury to 18 trespassers on real property .--19 (1) A person or organization owning or controlling an 20 21 interest in real property, or an agent of such person or 22 organization, shall not be held liable for any civil damages 23 for death of or injury or damage to a trespasser upon the 2.4 property when such trespasser was under the influence of 25 alcoholic beverages with a blood alcohol level of 0.08 percent 26 or higher, when such trespasser was under the influence of any 27 chemical substance set forth in s. 877.111, when such 2.8 trespasser was illegally under the influence of any substance controlled under chapter 893, or if the trespasser is affected 29 by any of the aforesaid substances to the extent that her or 30 his normal faculties are impaired. However, the person or

organization owning or controlling the interest in real property shall not be immune from liability if gross negligence or intentional misconduct on the part of such person or organization or agent thereof is a proximate cause of the death of or injury or damage to the trespasser.

(3)

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(b) To avoid liability to undiscovered trespassers, a person or organization owning or controlling an interest in real property must refrain from intentional misconduct that proximately causes injury to the undiscovered trespasser, but has no duty to warn of dangerous conditions. To avoid liability to discovered trespassers, a person or organization owning or controlling an interest in real property must refrain from gross negligence or intentional misconduct that proximately causes injury to the discovered trespasser, but the person or organization has no duty to and must warn the trespasser of dangerous conditions that are known to the person or organization owning or controlling an interest in real property but that are not readily observable by others.

Section 2. Section 810.10, Florida Statutes, is amended to read:

810.10 Posted land; removing notices unlawful; penalty.--

- (1) It is unlawful for any person to willfully remove, destroy, mutilate, or commit any act designed to remove, mutilate, or reduce the legibility or effectiveness of any posted notice placed by the owner, tenant, lessee, or occupant of legally enclosed or legally posted land pursuant to any law of this state for the purpose of legally enclosing the same.
- (2) Any person violating the provisions of this section  $\underline{\text{commits}}$  shall be  $\underline{\text{guilty of}}$  a  $\underline{\text{felony}}$   $\underline{\text{misdemeanor}}$  of the

third second degree, punishable as provided in s. 775.082, or 2 s. 775.083, or s. 775.084. 3 Section 3. Subsection (1) of section 810.115, Florida 4 Statutes, is amended to read: 5 810.115 Breaking or injuring fences.--6 (1) Whoever willfully and maliciously breaks down, mars, injures, defaces, cuts, or otherwise creates or causes 8 to be created an opening, gap, interruption, or break in any fence, or any part thereof, belonging to or enclosing land not 9 10 his or her own, or whoever causes to be broken down, marred, injured, defaced, or cut any fence belonging to or enclosing 11 land not his or her own, commits a felony misdemeanor of the 13 third first degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084. 14 Section 4. This act shall take effect October 1, 2007. 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31