

A bill to be entitled

An act relating to trespass; amending s. 768.075, F.S.;  
 revising provisions relating to immunity from liability  
 for injuries to trespassers; amending s. 810.10, F.S.;  
 increasing criminal penalties for certain offenses  
 relating to notices on posted land; amending s. 810.115,  
 F.S.; increasing criminal penalties for certain offenses  
 relating to breaking or injuring fences; providing an  
 effective date.

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

Section 1. Subsection (1) and paragraph (b) of subsection  
 (3) of section 768.075, Florida Statutes, are amended to read:

768.075 Immunity from liability for injury to trespassers  
 on real property.--

(1) A person or organization owning or controlling an  
 interest in real property, or an agent of such person or  
 organization, shall not be held liable for any civil damages for  
 death of or injury or damage to a trespasser upon the property  
~~when such trespasser was under the influence of alcoholic~~  
~~beverages with a blood alcohol level of 0.08 percent or higher,~~  
~~when such trespasser was under the influence of any chemical~~  
~~substance set forth in s. 877.111, when such trespasser was~~  
~~illegally under the influence of any substance controlled under~~  
~~chapter 893, or if the trespasser is affected by any of the~~  
~~aforesaid substances to the extent that her or his normal~~  
~~faculties are impaired.~~ However, the person or organization

HB 553

2007

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

34 | (3)

35 | (b) To avoid liability to undiscovered trespassers, a  
 36 | person or organization owning or controlling an interest in real  
 37 | property must refrain from intentional misconduct that  
 38 | proximately causes injury to the undiscovered trespasser, but  
 39 | has no duty to warn of dangerous conditions. To avoid liability  
 40 | to discovered trespassers, a person or organization owning or  
 41 | controlling an interest in real property must refrain from ~~gross~~  
 42 | ~~negligence or~~ intentional misconduct that proximately causes  
 43 | injury to the discovered trespasser, but the person or  
 44 | organization has no duty to ~~and must~~ warn ~~the trespasser~~ of  
 45 | dangerous conditions ~~that are known to the person or~~  
 46 | ~~organization owning or controlling an interest in real property~~  
 47 | ~~but that are not readily observable by others.~~

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

50 | 810.10 Posted land; removing notices unlawful; penalty.--

51 | (1) It is unlawful for any person to willfully remove,  
 52 | destroy, mutilate, or commit any act designed to remove,  
 53 | mutilate, or reduce the legibility or effectiveness of any  
 54 | posted notice placed by the owner, tenant, lessee, or occupant  
 55 | of legally enclosed or legally posted land pursuant to any law  
 56 | of this state for the purpose of legally enclosing the same.

HB 553

2007

57 (2) Any person violating the provisions of this section  
58 commits ~~shall be guilty of a felony misdemeanor~~ of the third  
59 ~~second~~ degree, punishable as provided in s. 775.082, ~~or~~ s.  
60 775.083, or s. 775.084.

61 Section 3. Subsection (1) of section 810.115, Florida  
62 Statutes, is amended to read:

63 810.115 Breaking or injuring fences.--

64 (1) Whoever willfully and maliciously breaks down, mars,  
65 injures, defaces, cuts, or otherwise creates or causes to be  
66 created an opening, gap, interruption, or break in any fence, or  
67 any part thereof, belonging to or enclosing land not his or her  
68 own, or whoever causes to be broken down, marred, injured,  
69 defaced, or cut any fence belonging to or enclosing land not his  
70 or her own, commits a felony misdemeanor of the third ~~first~~  
71 degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or  
72 s. 775.084.

73 Section 4. This act shall take effect October 1, 2007.