

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Regulated Industries Committee

BILL: CS/SB 2054

INTRODUCER: Regulated Industries Committee and Senator Baker

SUBJECT: Surveyors and Mappers

DATE: April 15, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Aubuchon	Imhof	RI	Fav/CS
2.			AG	
3.			CJ	
4.			JA	
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill creates s. 472.029(3), F.S. It provides for criminal penalties for surveyors, mappers or their subordinates who willfully and maliciously damage fences or enclosures in the course of their work. The bill provides for violation to be a misdemeanor of the first degree and a second or subsequent offense to be a felony of the third degree.

The bill provides that the offense to damage to a fence or enclosure used to contain livestock as defined in s. 588.13(1), F.S., at the time of the offense will be a felony of the third degree.

The bill provides that a court may require full compensation for any and all damages or losses resulting directly or indirectly from a violation of the newly created offenses.

The bill applies only to agricultural land as classified in s. 193.461, F.S.

This bill amends section 472.029, Florida Statutes.

The bill provides for an effective date of October 1, 2008.

II. Present Situation:

Surveyors and mappers are those who are registered to engage in the practice of surveying and mapping under ch. 472, F.S. Surveyors and mappers are responsible for displaying the facts of size, shape, topography, tidal datum planes, legal or geodetic location or relation, and orientation of improved or unimproved real property through direct measurement or from certifiable measurement through accepted photogrammetric procedures.¹

Surveyors and mappers are regulated by the Board of Professional Surveyors and Mappers (board) within the Department of Business and Professional Regulation (department).² The board is charged with certifying a surveyor or mapper to be licensed by the department, monitoring continuing education requirements, and commencing disciplinary proceedings.

Section 472.029, F.S., provides authorization for surveyors, mappers, their subordinates, and any agents and employees necessary, to make surveys and maps or to locate and set monuments to go on, over, and upon the lands of others. Entry under this right does not constitute trespass nor may they be liable to arrest or civil action for such entry. This section does not give surveyors, mappers, or their subordinates, the ability to move, injure, or destroy physical improvements on lands without the written permission of the landowner.

There is no criminal penalty for a violation of s. 472.029, F.S.

Disciplinary action for a violation of s. 472.029, F.S., is through review by the board and may include fines, revocation or suspension of a surveying or mapping license, or reprimand.³ Surveyors and mappers who damage private property are liable to landowners for such damages through civil action.

Section 810.115, F.S., provides:

that whoever willfully and maliciously breaks down, mars, injures, defaces, cuts, or otherwise creates or causes to be created an opening, gap, interruption, or break in any fence, or any part thereof, belonging to or enclosing land not his or her own, or whoever causes to be broken down, marred, injured, defaced, or cut any fence belonging to or enclosing land not his or her own, commits a misdemeanor of the first degree, punishable as provided in ss. 775.082 or 775.083, F.S. A person who commits a second or subsequent offense under this subsection commits a felony of the third degree, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.

The statute also provides that damages on fences used to contain animals would result in a felony of the third degree. Section 810.115, F.S., provides that the court may require full compensation for any and all damages or losses resulting directly or indirectly from a violation of the statute.

¹ Section 472.005, F.S.

² Section 472.007, F.S.

³ Section 472.033, F.S.

III. Effect of Proposed Changes:

This bill creates s. 472.029(3), F.S. which provides for criminal penalties similar to those found in s. 810.115, F.S., for surveyors, mappers or their subordinates who damage fences or enclosures in the course of their work. The bill provides for violation to be a misdemeanor of the first degree and a second or subsequent offense to be a felony of the third degree.

The bill provides that the offense to damage to a fence or enclosure used to contain livestock as defined in s. 588.13(1), F.S., at the time of the offense will be a felony of the third degree.

The bill provides that a court may require full compensation for any and all damages or losses resulting directly or indirectly from a violation of the newly created offenses.

The bill applies only to agricultural land as classified in s. 193.461, F.S.

The bill provides for an effective date of October 1, 2008.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Criminal Justice Impact Conference (CJIC) met on March 14, 2008 and determined this bill would have an insignificant prison bed impact.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Regulated Industries on April 15, 2008

The committee substitute (CS) amends s. 472.029(3) to add “willfully and maliciously” to the actions of breaking or injuring fences or barriers.

The CS restricts application of the created section to agricultural land classified under s. 193.461, F.S.

- B. **Amendments:**

None.