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1 A bill to be entitled
 2 An act relating to trespass; amending s. 810.09, F.S.;
 3 including trespass on certain property of railway
 4 companies and mining companies within the offense of
 5 trespass on property other than a structure or conveyance;
 6 providing criminal penalties; amending s. 810.011, F.S.;
 7 revising the definition of the term "cultivated land" for
 8 purposes of provisions relating to trespass; providing an
 9 effective date.

10

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

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13 Section 1. Section 810.09, Florida Statutes, is amended to
 14 read:

15 810.09 Trespass on property other than structure or
 16 conveyance.—

17 (1) (a) A person who, without being authorized, licensed,
 18 or invited, willfully enters upon or remains in any property
 19 other than a structure or conveyance:

20 1. As to which notice against entering or remaining is
 21 given, either by actual communication to the offender or by
 22 posting, fencing, or cultivation as described in s. 810.011; ~~or~~

23 2. If the property is the unenclosed curtilage of a
 24 dwelling and the offender enters or remains with the intent to
 25 commit an offense thereon, other than the offense of trespass;it

26 3. If the property is either readily recognizable to a
 27 reasonable person as the property of a railroad or railway
 28 company or is identified by conspicuous fencing or signs

29 indicating that the property is owned or leased by a railroad or
 30 railway company; or

31 4. If the property is either readily recognizable to a
 32 reasonable person as the property of a mining company or is
 33 identified by conspicuous fencing or signs indicating that the
 34 property is owned or leased by a mining company;

35
 36 commits the offense of trespass on property other than a
 37 structure or conveyance.

38 (b) As used in this section, the term "unenclosed
 39 curtilage" means the unenclosed land or grounds, and any
 40 outbuildings, that are directly and intimately adjacent to and
 41 connected with the dwelling and necessary, convenient, and
 42 habitually used in connection with that dwelling.

43 (2) (a) Except as provided in this subsection, trespass on
 44 property other than a structure or conveyance is a misdemeanor
 45 of the first degree, punishable as provided in s. 775.082 or s.
 46 775.083.

47 (b) If the offender defies an order to leave, personally
 48 communicated to the offender by the owner of the premises or by
 49 an authorized person, or if the offender willfully opens any
 50 door, fence, or gate or does any act that exposes animals,
 51 crops, or other property to waste, destruction, or freedom;
 52 unlawfully dumps litter on property; or trespasses on property
 53 other than a structure or conveyance, the offender commits a
 54 misdemeanor of the first degree, punishable as provided in s.
 55 775.082 or s. 775.083.

56 (c) If the offender is armed with a firearm or other

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57 | dangerous weapon during the commission of the offense of
58 | trespass on property other than a structure or conveyance, he or
59 | she is guilty of a felony of the third degree, punishable as
60 | provided in s. 775.082, s. 775.083, or s. 775.084. Any owner or
61 | person authorized by the owner may, for prosecution purposes,
62 | take into custody and detain, in a reasonable manner, for a
63 | reasonable length of time, any person when he or she reasonably
64 | believes that a violation of this paragraph has been or is being
65 | committed, and that the person to be taken into custody and
66 | detained has committed or is committing the violation. If a
67 | person is taken into custody, a law enforcement officer shall be
68 | called as soon as is practicable after the person has been taken
69 | into custody. The taking into custody and detention in
70 | compliance with the requirements of this paragraph does not
71 | result in criminal or civil liability for false arrest, false
72 | imprisonment, or unlawful detention.

73 | (d) The offender commits a felony of the third degree,
74 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
75 | if the property trespassed is a construction site that is:

76 | 1. Greater than 1 acre in area and is legally posted and
77 | identified in substantially the following manner: "THIS AREA IS
78 | A DESIGNATED CONSTRUCTION SITE, AND ANYONE WHO TRESPASSES ON
79 | THIS PROPERTY COMMITS A FELONY."; or

80 | 2. One acre or less in area and is identified as such with
81 | a sign that appears prominently, in letters of not less than 2
82 | inches in height, and reads in substantially the following
83 | manner: "THIS AREA IS A DESIGNATED CONSTRUCTION SITE, AND ANYONE
84 | WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY." The sign

85 shall be placed at the location on the property where the
 86 permits for construction are located. For construction sites of
 87 1 acre or less as provided in this subparagraph, it shall not be
 88 necessary to give notice by posting as defined in s. 810.011(5).

89 (e) The offender commits a felony of the third degree,
 90 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
 91 if the property trespassed upon is commercial horticulture
 92 property and the property is legally posted and identified in
 93 substantially the following manner: "THIS AREA IS DESIGNATED
 94 COMMERCIAL PROPERTY FOR HORTICULTURE PRODUCTS, AND ANYONE WHO
 95 TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

96 (f) The offender commits a felony of the third degree,
 97 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
 98 if the property trespassed upon is an agricultural site for
 99 testing or research purposes that is legally posted and
 100 identified in substantially the following manner: "THIS AREA IS
 101 A DESIGNATED AGRICULTURAL SITE FOR TESTING OR RESEARCH PURPOSES,
 102 AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

103 (g) The offender commits a felony of the third degree,
 104 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
 105 if the property trespassed upon is a domestic violence center
 106 certified under s. 39.905 which is legally posted and identified
 107 in substantially the following manner: "THIS AREA IS A
 108 DESIGNATED RESTRICTED SITE AND ANYONE WHO TRESPASSES ON THIS
 109 PROPERTY COMMITS A FELONY."

110 (h) Any person who in taking or attempting to take any
 111 animal described in s. 379.101(19) or (20), or in killing,
 112 attempting to kill, or endangering any animal described in s.

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113 585.01(13) knowingly propels or causes to be propelled any
 114 potentially lethal projectile over or across private land
 115 without authorization commits trespass, a felony of the third
 116 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 117 775.084. For purposes of this paragraph, the term "potentially
 118 lethal projectile" includes any projectile launched from any
 119 firearm, bow, crossbow, or similar tensile device. This section
 120 does not apply to any governmental agent or employee acting
 121 within the scope of his or her official duties.

122 (i) The offender commits a felony of the third degree,
 123 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
 124 if the property trespassed upon is an agricultural chemicals
 125 manufacturing facility that is legally posted and identified in
 126 substantially the following manner: "THIS AREA IS A DESIGNATED
 127 AGRICULTURAL CHEMICALS MANUFACTURING FACILITY, AND ANYONE WHO
 128 TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

129 (3) As used in this section, the term "authorized person"
 130 or "person authorized" means any owner, his or her agent, or a
 131 community association authorized as an agent for the owner, or
 132 any law enforcement officer whose department has received
 133 written authorization from the owner, his or her agent, or a
 134 community association authorized as an agent for the owner, to
 135 communicate an order to leave the property in the case of a
 136 threat to public safety or welfare.

137 Section 2. Subsection (6) of section 810.011, Florida
 138 Statutes, is amended to read:

139 810.011 Definitions.—As used in this chapter:

140 (6) "Cultivated land" is ~~that~~ land which either

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141 | constitutes a natural pasture or which has been cleared of its
142 | natural vegetation and is presently planted with a crop,
143 | orchard, grove, pasture, or trees or is fallow land as part of a
144 | crop rotation.

145 | Section 3. This act shall take effect October 1, 2011.