

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1135 Limitation of Civil Liability for Farmers

SPONSOR(S): Rader and others

TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 1138

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|-----------|---------|--|
| 1) Civil Justice Subcommittee | 13 Y, 0 N | Ward | Bond |
| 2) Agriculture & Natural Resources Subcommittee | | | |
| 3) Judiciary Committee | | | |

SUMMARY ANALYSIS

Current law provides that any farmer who allows persons to enter upon land for removing produce after the harvest is exempt from civil liability resulting from the condition of the land and the condition of the crop.

The bill removes the language which limits the farmer's exemption from liability to post-harvest removal of produce or crops. The effect is to provide the farmer with an exemption from civil liability in respect to the condition of the land or crop to any person entering upon the farmer's land for the purpose of harvesting or removing a crop.

The exemption from civil liability does not apply if injury or death directly results from the gross negligence, intentional act, or from known dangerous conditions not disclosed by the farmer.

The bill does not appear to have a fiscal impact on the state or local governments.

The bill has an effective date of July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Landowner Liability

A plaintiff who is injured on another person's land may sue the landowner in tort if the landowner breached a duty of care owed to the plaintiff and the plaintiff suffered damages as a result of the landowner's breach.¹ A landowner's duty to persons on his or her land is governed by the status of the injured person.

An invitee is a person who was invited to enter the land.² Florida law defines "invitation" to mean "that the visitor entering the premises has an objectively reasonable belief that he or she has been invited or is otherwise welcome on that portion of the real property where injury occurs."³ The duties owed to most invitees are the duty to keep property in reasonably safe condition; the duty to warn of concealed dangers which are known or should be known to the property holder, and which the invitee cannot discover through the exercise of due care; and the duty to refrain from wanton negligence or willful misconduct.⁴

Farms

Persons invited to pick crops on another's land are considered to be invitees, according to the above definition. In the absence of contract, the farmer⁵ owning and working the land has a duty of care to parties who are invited to u-pick farms, or who enter upon the land for cooperative farming, or other harvesting reasons.

Current law provides that any farmer who allows persons to enter upon land for removing produce after the harvest is exempt from civil liability resulting from the condition of the land and the condition of the crop.

The bill removes the language which limits the farmer's exemption from liability to post-harvest removal of produce or crops. The effect is to provide the farmer with an exemption from civil liability in respect to the condition of the land or crop to any person entering upon the farmer's land for the purpose of harvesting or removing a crop, unless the exemption applies.

The exemption from civil liability does not apply if injury or death directly results from the gross negligence, intentional act, or from known dangerous conditions not disclosed by the farmer.

B. SECTION DIRECTORY:

Section 1 amends s. 768.137, F.S., relating to definition; limitation of civil liability for certain farmers; exception.

Section 2 provides an effective date of July 1, 2014.

¹ 74 Am.Jur 2d Torts s. 7 (2013).

² *Post v. Lunney*, 261 So.2d 147-48 (Fla. 1972).

³ Section 768.075(3)(a)1., F.S.

⁴ *See, e.g., Dampier v. Morgan Tire & Auto, LLC*, 82 So.3d 204, 205 (Fla. 5th DCA 2012).

⁵ "[T]he term 'farmer' means a person who is engaging in the growing or producing of farm produce, either part time or full time, for personal consumption or for sale and who is the owner or lessee of the land . . ." Section. 768.137(1), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill does not appear to have any impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.