

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 Committee on Agriculture

BILL: SB 1138

INTRODUCER: Senator Evers

SUBJECT: Civil Liability of Farmers

DATE: March 13, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Weidenbenner</u>	<u>Becker</u>	<u>AG</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>JU</u>	_____

I. Summary:

SB 1138 exempts a farmer from civil liability if he gratuitously allows a person to come onto his land to remove farm produce or crops at any time. Presently the exemption applies only when that activity takes place after harvesting.

II. Present Situation:

Gleaning is defined as the gathering of grain after the reapers, or of grain left ungathered by reapers.¹ In everyday terms, gleaning is the practice of going over a field or area that has just been harvested and gather by hand any usable parts of the crop that remain. It raises liability questions, especially with respect to the quality of the food gathered and donated and any harmful effects that may come from donated foods. Prior to 1990, every state and the District of Columbia had some form of statutory protection from liability for charitable food donation and distribution. Because of the inconsistency of state laws, Congress passed federal legislation providing uniform protection to gleaners, citizens, businesses, and nonprofit organizations that act in good faith to donate, recover, and distribute excess food.² Even though the federal law takes precedence over individual states' laws on the subject, it does not supersede state or local health regulations and does not limit liability in the case of injury or death due to gross neglect or intentional misconduct.

While the federal law was aimed at gleaning where the food was ultimately distributed to the needy, Florida passed a more protective law for farmers by exempting them from civil liability if they gratuitously allow a person to enter onto their land to remove any farm produce or crops remaining in the fields after harvesting unless injury or death resulted from gross negligence or intentional act of the farmer.³ Some farmers have indicated that there are circumstances where

¹ See <http://thelawdictionary.org/letter/g/page/20>. (last visited Mar 12, 2014).

² Pub. Law No. 104-210, H.R. 2428, 104th Cong. (Oct. 1, 1996).

³ Chapter 92-151, L.O.F.

they would allow gleaning before harvesting but are reluctant to do so because of a concern about exposure to legal liability.⁴

III. Effect of Proposed Changes:

Section 1 amends s. 768.137, F.S., to exempt a farmer from civil liability if he gratuitously allows a person to come onto his land to remove farm produce or crops.

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

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:

The exemption from civil liability for a farmer who allows a person to enter onto his land to glean produce or crops has been expanded to include both before and after harvesting.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁴ Telephone conversation with Adam Basford, Director of State Legislative Affairs, Florida Farm Bureau (Mar. 11, 2014).

VIII. Statutes Affected:

This bill substantially amends section 768.137 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
