

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 967 Trespass on Airport Property
SPONSOR(S): Criminal Justice Subcommittee; Cortes, B. and others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1174

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	13 Y, 0 N, As CS	Keegan	Cunningham
2) Justice Appropriations Subcommittee	12 Y, 0 N	Schrader	Lloyd
3) Judiciary Committee	16 Y, 0 N	Keegan	Havlicak

SUMMARY ANALYSIS

The bill amends s. 810.09, F.S., to increase criminal penalties from a first degree misdemeanor to a third degree felony where an offender trespasses on the operational area of an airport with the intent to:

- Injure another person;
- Damage property; or
- Impede the operation or use of an aircraft, runway, taxiway, ramp or apron area.

The bill defines “operational area of an airport” as any portion of an airport to which access by the public is prohibited by fences or appropriate signs and includes runways, taxiways, ramps, apron areas, aircraft parking and storage areas, fuel storage areas, maintenances areas, and any other area of an airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft.

The bill requires that a sign with language similar to the following be posted in order for a trespasser to be prosecuted: “THIS AREA IS A DESIGNATED OPERATIONAL AREA OF AN AIRPORT AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY.”

The Criminal Justice Impact Conference met on March 11, 2015, and determined that this bill will have an insignificant impact on state prison beds. This means CJIC estimates that this bill may increase the Department of Corrections prison bed population by less than 10 inmates annually. The bill may also have a negative county jail bed impact.

The bill is effective October 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Trespass

Florida law currently prohibits a variety of acts relating to trespassing in or on the property of others.

For example:

- Section 810.08, F.S., makes it a second degree misdemeanor¹ to willfully enter or remain in any structure² or conveyance,³ without being authorized, licensed, or invited, or, having been authorized, licensed, or invited, is warned by the owner or lessee of the premises, or by a person authorized by the owner or lessee, to depart and refuses to do so.⁴
- Section 810.09, F.S., makes it a first degree misdemeanor⁵ to willfully enter upon or remain in any property other than a structure or conveyance, without being authorized, licensed, or invited:
 - Where notice against entering or remaining is given either by actual communication to the offender or by posting, fencing, or cultivation as described in s. 810.011, F.S.; or
 - If the property is the unenclosed curtilage of a dwelling⁶ and the offender enters or remains with the intent to commit an offense thereon, other than the offense of trespass.

Generally, trespass offenses are misdemeanors. However, the penalties relating to trespass offenses are often increased when the offense involves specified types of property. For example, it is a third degree felony⁷ to trespass on designated construction sites, commercial horticulture properties, and agricultural chemicals manufacturing facilities.⁸ These properties must have posted warnings that contain specific language identifying the property as a protected type.⁹

Airport Security

Air travel security first gained national attention in the 1960s because of a rash of airplane hijackings.¹⁰ In response to this new threat, Congress made aircraft piracy and carrying a “concealed deadly or dangerous weapon” on an aircraft without authorization a federal crime.¹¹ This law did little to slow the rate of hijacking attempts, and in 1970, the first federal airport screening and security program was put in place at airports nationwide to fight increasing security hazards.¹² Airport security measures have been added over the past fifteen years as new threats arise.¹³

In recent years, there have been a number of reports of individuals trespassing into security screening areas, taxiways, and other restricted areas at airports.¹⁴ Small breaches of airport security can cause

¹ A second degree misdemeanor is punishable by up to 60 days in jail and a \$500 fine. ss. 775.082 and 775.083, F.S.

² Section 810.011(1), F.S., defines “structure” as a building of any kind.

³ Section 810.011(3), F.S., defines “conveyance” as any motor vehicle, ship, vessel, railroad vehicle or car, trailer, aircraft, or sleeping car.

⁴ This section increases the penalties to a first degree misdemeanor or a third degree felony in specified circumstances.

⁵ A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. ss. 775.082 and 775.083, F.S.

⁶ Section 810.011(2), F.S., defines “dwelling” as a building or conveyance of any kind, including any attached porch, whether such building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it and is designed to be occupied by people lodging therein at night, together with the curtilage thereof.

⁷ A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. ss. 775.082 and 775.083, F.S.

⁸ s. 810.09(2)(d)(1), (e), and (i), F.S.

⁹ s. 810.09(2), F.S.

¹⁰ Daniel S. Harawa, *The Post-TSA Airport: A Constitution Free Zone?*, 41 PEPP. L. REV. 1, 4 (2013).

¹¹ Act of Jan. 3, 1961, Pub. L. No. 87-197, 75 Stat. 466-68.

¹² Statement Announcing a Program to Deal with Airport Hijacking, 1 PUB. PAPERS 742 (Sept. 11, 1970), <http://www.presidency.ucsb.edu/ws/index.php?pid=2659> (last visited March 10, 2015); see also Harawa, *supra* note 9, at 4.

¹³ See Exec. Order No. 13,228, 66 Fed. Reg. 51,812 (Oct. 10, 2001).

¹⁴ See Peter D’Oench, *Police: Woman Arrested for Scaling Miami Airport Fence*, CBS MIAMI (March 2, 2015), <http://miami.cbslocal.com/2015/03/02/police-woman-arrested-for-scaling-miami-airport-fence/> (last visited April 6, 2015); Ray Sanchez, *Man Walks onto Newark Airport Runways; Authorities Reviewing Security Video*, FOX 13 (Dec. 26, 2013),

<http://fox13now.com/2013/12/26/new-jersey-airports-multimillion-dollar-detection-system-fails/> (last visited March 10, 2015); Sarah

major delays and security risks. One incident at Newark Liberty International Airport involved a young man who slipped under a security rope into a secured passenger area to give his girlfriend a goodbye kiss.¹⁵ This brief security breach caused a six-hour terminal shutdown, stranded thousands of passengers, and delayed flights continuing into the next day.¹⁶

Federal law currently prohibits any person from knowingly and willfully entering any aircraft or airport area in violation of specified security requirements.¹⁷ An offender who acts with the intent to evade security procedures or with the intent to commit a felony in the aircraft or airport area may face up to twenty years in federal prison.¹⁸

Currently, Florida law does not specifically prohibit trespassing in any portion of an airport. Therefore, trespassing on airport property is a first degree misdemeanor.¹⁹

Effect of the Bill

The bill amends s. 810.09, F.S., to make it a third degree felony for a person to trespass on the operational area of an airport with the intent to injure another person; damage property; or impede the operation or use of an aircraft, runway, taxiway, ramp or apron area.

The bill defines “operational area of an airport” as any portion of an airport to which access by the public is prohibited by fences or appropriate signs and includes runways, taxiways, ramps, apron areas, aircraft parking and storage areas, fuel storage areas, maintenances areas, and any other area of an airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft.

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B. SECTION DIRECTORY:

Section 1. Amends s. 810.09, F.S., relating to trespass on property other than structure or conveyance.

Section 2. Provides an effective date of October 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

The Criminal Justice Impact Conference met on March 11, 2015, and determined that this bill will have an insignificant impact on state prison beds. This means CJIC estimates that this bill may increase the Department of Corrections prison bed population by less than 10 inmates annually.

Wheaton, *Man is Held in Security Breach at Newark*, THE NEW YORK TIMES (Jan. 8, 2010), http://www.nytimes.com/2010/01/09/nyregion/09newark.html?_r=0 (last visited March 10, 2015).

¹⁵ Sarah Wheaton, *Man is Held in Security Breach at Newark*, THE NEW YORK TIMES (Jan. 8, 2010), http://www.nytimes.com/2010/01/09/nyregion/09newark.html?_r=0 (last visited March 10, 2015); Al Baker & Liz Robbins, *A ‘Romantic’ Now in Trouble over an Airport Kiss*, THE NEW YORK TIMES (Jan. 9, 2010)

<http://www.nytimes.com/2010/01/10/nyregion/10newark.html> (last visited March 9, 2015).

¹⁶ *Id.*

¹⁷ 49 U.S.C. § 46314 (2015).

¹⁸ *Id.*

¹⁹ While Florida law does not specifically prohibit trespassing in any portion of an airport, s. 901.15, F.S., allows a law enforcement officer to arrest a person for misdemeanor trespass without a warrant when there is probable cause to believe that the person has committed trespass in a secure area of an airport when signs are posted in conspicuous areas of the airport which notify that unauthorized entry into such areas constitutes a trespass and specify the methods for gaining authorized access to such areas.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

To the extent persons who trespass on the operational area of an airport are charged with a felony rather than a misdemeanor, the bill may have a negative jail bed impact (i.e., it will decrease the need for jail beds).

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of article VII, section 18 of the Florida Constitution because it is a criminal law.

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

On March 16, 2015, the Criminal Justice Subcommittee adopted one amendment and reported the bill as favorable as a committee substitute. The amendment creates the requirement that the operational area of an airport is posted with signs identifying the area in a specified manner in order to prosecute an offender for trespass.

This analysis is drafted to the committee substitute as passed by the Criminal Justice Subcommittee.