

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 Criminal Justice

BILL: SB 188

INTRODUCER: Senator Brodeur

SUBJECT: Trespass on Commercial Agricultural Property

DATE: December 4, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wyant	Stokes	CJ	Favorable
2.			AG	
3.			RC	

I. Summary:

SB 188 amends s. 810.09, F.S., to provide that it is a third degree felony for a person to trespass with the intent to commit a crime on commercial agricultural property that is legally posted and identified by signs.

“Commercial agricultural property” means property that is cleared of its natural vegetation or fenced for the purposes of planting, growing, harvesting, processing, or storing plant or animal commercial commodities intended for human consumption.

The bill may have an indeterminate fiscal impact on the Department of Corrections (DOC). See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

In 2021, Florida had 47,500 commercial farms, using a total of 9.7 million acres. There were 5,000 farms with sales exceeding \$100,000. Florida ranks 15th among all states in number of farms and 30th in land in farms. Farm cash receipts from marketing Florida agricultural products in 2020 amounted to \$7.41 billion.¹

Florida provides enhanced criminal penalties for trespass upon specified properties, including commercial horticulture properties and agriculture sites for testing or research purposes. There are no enhanced penalties for commercial agricultural properties.

¹ See Florida Department of Agriculture and Consumer Services, Agriculture Industry, available at: <https://www.fdacs.gov/Agriculture-Industry/Florida-Agriculture-Overview-and-Statistics> (last visited November 28, 2023).

Section 810.09, F.S., provides that trespass on property other than a structure² or conveyance³ is a first degree misdemeanor.⁴

A person commits the offense of trespass on property other than a structure or conveyance, when he or she, without being authorized,⁵ licensed, or invited, willfully enters upon or remains in any property other than a structure or conveyance:

- As to which notice against entering or remaining is given, either by actual communication to the offender or by posting, fencing, or cultivation; or
- If the property is the unenclosed curtilage⁶ of a dwelling and the offender enters or remains with the intent to commit an offense thereon, other than the offense of trespass.

Additionally, s. 810.09, F.S., provides enhanced criminal penalties for specific types of trespass. For example, it is a third degree felony⁷ if the:

- Offender is armed with a firearm or other dangerous weapon during the commission of the offense of trespass on property other than a structure or conveyance.
- Property trespassed upon is commercial horticulture property and the property is legally posted and identified in substantially the following manner: “THIS AREA IS DESIGNATED COMMERCIAL PROPERTY FOR HORTICULTURE PRODUCTS, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY.”
- Property trespassed upon is an agricultural site for testing or research purposes that is legally posted and identified in substantially the following manner: “THIS AREA IS A DESIGNATED AGRICULTURAL SITE FOR TESTING OR RESEARCH PURPOSES, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY.”

III. Effect of Proposed Changes:

The bill amends s. 810.09, F.S., to provide that it is a third degree felony if the offender trespasses with the intent to commit a crime on commercial agriculture property that is legally

² “Structure” means a building of any kind, either temporary or permanent, which has a roof over it, together with the curtilage thereof. However, during the time of a state of emergency declared by executive order or proclamation of the Governor under ch. 252, F.S., and within the area covered by such executive order or proclamation and for purposes of ss. 810.02 and 810.08, F.S., only, the term means a building of any kind or such portions or remnants thereof as exist at the original site, regardless of absence of a wall or roof. Section 810.011(1), F.S.

³ “Conveyance” means any motor vehicle, ship, vessel, railroad vehicle or car, trailer, aircraft, or sleeping car; and “to enter a conveyance” includes taking apart any portion of the conveyance. However, during the time of a state of emergency declared by executive order or proclamation of the Governor under ch. 252, F.S., and within the area covered by such executive order or proclamation and for purposes of ss. 810.02 and 810.08, F.S., only, the term “conveyance” means a motor vehicle, ship, vessel, railroad vehicle or car, trailer, aircraft, or sleeping car or such portions thereof as exist. Section 810.011(3), F.S.

⁴ A first degree misdemeanor is punishable by not more than 1 year in county jail and a fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

⁵ “Authorized person” or “person authorized” means any owner, his or her agent, or a community association authorized as an agent for the owner, or any law enforcement officer whose department has received written authorization from the owner, his or her agent, or a community association authorized as an agent for the owner, to communicate an order to leave the property in the case of a threat to public safety or welfare. Section 810.09(3), F.S.

⁶ “Unenclosed curtilage” means the unenclosed land or grounds, and any outbuildings, that are directly and intimately adjacent to and connected with the dwelling and necessary, convenient, and habitually used in connection with that dwelling. Section 810.09(1)(b), F.S.

⁷ A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S.

posted and identified by signs in letters of not less than 2 inches in height at each pedestrian and vehicle entrance in substantially the following manner: “THIS AREA IS A DESIGNATED COMMERCIAL AGRICULTURAL PROPERTY AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY.”

“Commercial agricultural property” means property that is cleared of its natural vegetation or fenced for the purposes of planting, growing, harvesting, processing, or storing plant or animal commercial commodities intended for human consumption.

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IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill creates a new third degree felony for trespass on agricultural property. This may have a positive indeterminate impact on the DOC due to the potential increase in prison beds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 810.09 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.