

Amendment No. 7

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER

1 Committee/Subcommittee hearing PCB: Transportation & Highway
2 Safety Subcommittee
3 Representative Davis offered the following:

Amendment (with title amendment)

Between lines 1686 and 1687, insert:

7 Section 27. Subsection (2) of section 810.09, Florida
8 Statutes, is amended to read:

9 810.09 Trespass on property other than structure or
10 conveyance.—

11 (2) (a) Except as provided in this subsection, trespass on
12 property other than a structure or conveyance is a misdemeanor
13 of the first degree, punishable as provided in s. 775.082 or s.
14 775.083.

15 (b) If the offender defies an order to leave, personally
16 communicated to the offender by the owner of the premises or by
17 an authorized person, or if the offender willfully opens any
18 door, fence, or gate or does any act that exposes animals,
19 crops, or other property to waste, destruction, or freedom;

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20 unlawfully dumps litter on property; or trespasses on property
21 other than a structure or conveyance, the offender commits a
22 misdemeanor of the first degree, punishable as provided in s.
23 775.082 or s. 775.083.

24 (c)1. If the offender is armed with a firearm or other
25 dangerous weapon during the commission of the offense of
26 trespass on property other than a structure or conveyance, he or
27 she commits ~~is guilty of~~ a felony of the third degree,
28 punishable as provided in s. 775.082, s. 775.083, or s. 775.084
29 except as provided in this paragraph. Any owner or person
30 authorized by the owner may, for prosecution purposes, take into
31 custody and detain, in a reasonable manner, for a reasonable
32 length of time, any person when he or she reasonably believes
33 that a violation of this paragraph has been or is being
34 committed, and that the person to be taken into custody and
35 detained has committed or is committing the violation. If a
36 person is taken into custody, a law enforcement officer shall be
37 called as soon as is practicable after the person has been taken
38 into custody. The taking into custody and detention in
39 compliance with the requirements of this paragraph does not
40 result in criminal or civil liability for false arrest, false
41 imprisonment, or unlawful detention.

42 2. If a person is engaged in a lawful hunting activity and
43 the person owns or is a lessee of property which abuts
44 stationary rails or roadbeds that are owned or leased by a
45 railroad or railway company where notice of posting is not
46 provided, he or she does not commit a violation of this section
47 for a temporary entry upon such railroad or railway company

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48 property for purposes of moving from one hunting location to
49 another hunting location. However such a person shall be subject
50 to the provisions of paragraph (h) related to potentially lethal
51 projectiles. Nothing in this subparagraph shall be construed as
52 giving authority to such person to destroy, injure, damage, or
53 move anything on such railroad or railway company property.

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

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

61 2. One acre or less in area and is identified as such with
62 a sign that appears prominently, in letters of not less than 2
63 inches in height, and reads in substantially the following
64 manner: "THIS AREA IS A DESIGNATED CONSTRUCTION SITE, AND ANYONE
65 WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY." The sign
66 shall be placed at the location on the property where the
67 permits for construction are located. For construction sites of
68 1 acre or less as provided in this subparagraph, it shall not be
69 necessary to give notice by posting as defined in s. 810.011(5).

70 (e) The offender commits a felony of the third degree,
71 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
72 if the property trespassed upon is commercial horticulture
73 property and the property is legally posted and identified in
74 substantially the following manner: "THIS AREA IS DESIGNATED

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75 COMMERCIAL PROPERTY FOR HORTICULTURE PRODUCTS, AND ANYONE WHO
76 TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

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

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

91 (h) Any person who in taking or attempting to take any
92 animal described in s. 379.101(19) or (20), or in killing,
93 attempting to kill, or endangering any animal described in s.
94 585.01(13) knowingly propels or causes to be propelled any
95 potentially lethal projectile over or across private land
96 without authorization commits trespass, a felony of the third
97 degree, punishable as provided in s. 775.082, s. 775.083, or s.
98 775.084. For purposes of this paragraph, the term "potentially
99 lethal projectile" includes any projectile launched from any
100 firearm, bow, crossbow, or similar tensile device. This section
101 does not apply to any governmental agent or employee acting
102 within the scope of his or her official duties.

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103 (i) 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 an agricultural chemicals
106 manufacturing facility that is legally posted and identified in
107 substantially the following manner: "THIS AREA IS A DESIGNATED
108 AGRICULTURAL CHEMICALS MANUFACTURING FACILITY, AND ANYONE WHO
109 TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

110 (j) If the offender commits trespass on stationary rails
111 or roadbeds that are owned or leased by a railroad or railway
112 company where notice of posting is not provided and the offender
113 is not engaged in any other unlawful activity, the following
114 penalties shall apply:

115 1. For a first offense a civil citation pursuant to s.
116 985.12 may be issued.

117 2. For a second or subsequent offense a misdemeanor of the
118 first degree punishable as provided in s. 775.082 or s. 775.083.

119 Section 28. Subsection (5) of section 810.011, Florida
120 Statutes, is amended to read:

121 810.011 Definitions.—As used in this chapter:

122 (5) (a) "Posted land" is that land upon which:

123 1. Signs are placed not more than 500 feet apart along,
124 and at each corner of, the boundaries of the land, upon which
125 signs there appears prominently, in letters of not less than 2
126 inches in height, the words "no trespassing" and in addition
127 thereto the name of the owner, lessee, or occupant of said land.
128 The ~~Said~~ signs shall be placed along the boundary line of posted
129 land in a manner and in such position as to be clearly
130 noticeable from outside the boundary line; or

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131 2.a. Conspicuous no trespassing notice is painted on trees
132 or posts on the property, provided that the notice is:

133 (I) Painted in an international orange color and
134 displaying the stenciled words "No Trespassing" in letters no
135 less than 2 inches high and 1 inch wide either vertically or
136 horizontally;

137 (II) Placed so that the bottom of the painted notice is
138 not less than 3 feet from the ground or more than 5 feet from
139 the ground; and

140 (III) Placed at locations that are readily visible to any
141 person approaching the property and no more than 500 feet apart
142 on agricultural land.

143 b. Beginning October 1, 2013, if ~~October 1, 2007,~~ when a
144 landowner uses the painted no trespassing posting to identify a
145 "no trespassing" area, those painted notices shall be
146 accompanied by signs complying with subparagraph 1. and placed
147 conspicuously at all places where entry to the property is
148 normally expected or known to occur.

149 (b) It is ~~shall~~ not ~~be~~ necessary to give notice by posting
150 on any enclosed land or place not exceeding 5 acres in area on
151 which there is a dwelling house in order for ~~to obtain the~~
152 ~~benefits of~~ ss. 810.09 and 810.12 to apply ~~pertaining to~~
153 ~~trespass on enclosed lands.~~

154 (c) Notwithstanding paragraph (a), if a person enters upon
155 stationary rails or roadbeds that are owned or leased by a
156 railroad or railway company, and such rails or roadbeds are
157 readily recognizable to a reasonable person as being the
158 property of a railroad or railway company or identified by

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159 conspicuous fencing or signs indicating that the property is
160 owned or leased by a railroad or railway company, then ss.
161 810.09 and 810.12 shall apply, irrespective of any failure to
162 give notice by posting.

163 (d) These provisions shall not apply to nor in any way
164 diminish, obstruct nor impede currently existing rights of
165 access and egress to pertinent facilities and right of way by
166 officers and or representatives of labor organizations to
167 perform duties or activities protected under the Railway Labor
168 Act (RLA) or the National Labor Relations Act (NLRA).

169 Section 29. For the purpose of incorporating the amendment
170 made by this act to section 810.011, Florida Statutes, in a
171 reference thereto, paragraph (b) of subsection (5) of section
172 260.0125, Florida Statutes, is reenacted to read:

173 260.0125 Limitation on liability of private landowners
174 whose property is designated as part of the statewide system of
175 greenways and trails.—

176 (5)

177 (b) Such notices must comply with s. 810.011(5) and shall
178 constitute a warning to unauthorized persons to remain off the
179 private property and not to depart from the designated greenway
180 or trail. Any person who commits such an unauthorized entry
181 commits a trespass as provided in s. 810.09.

182 Section 30. For the purpose of incorporating the amendment
183 made by this act to section 810.011, Florida Statutes, in a
184 reference thereto, paragraph (d) of subsection (2) of section
185 810.09, Florida Statutes, is reenacted to read:

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186 810.09 Trespass on property other than structure or
187 conveyance.—

188 (2)

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

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

196 2. One acre or less in area and is identified as such with
197 a sign that appears prominently, in letters of not less than 2
198 inches in height, and reads in substantially the following
199 manner: "THIS AREA IS A DESIGNATED CONSTRUCTION SITE, AND ANYONE
200 WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY." The sign
201 shall be placed at the location on the property where the
202 permits for construction are located. For construction sites of
203 1 acre or less as provided in this subparagraph, it shall not be
204 necessary to give notice by posting as defined in s. 810.011(5).

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T I T L E A M E N D M E N T

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Remove line 170 and insert:

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the mitigation plan to include new projects; amending

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s. 810.09, F.S.; relating to trespass; providing an

212

exception for certain hunters who enter on railroad

213

property; providing penalties for trespassing on

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PCB Name: PCB THSS 13-02 (2013)

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214 railroad property; amending s. 810.011, F.S.;

215 providing that property that is owned or leased by a

216 railroad or railway company does not have to satisfy

217 the definition of "posted land" in order to obtain the

218 benefits of ss. 810.09 and 810.12, F.S., in certain

219 circumstances; reenacting s. 260.0125(5)(b), F.S.,

220 relating to Limitation on liability of private

221 landowners whose property is designated as part of the

222 statewide system of greenways and trails.; reenacting

223 s. 810.09(2)(d), F.S., relating to Trespass on

224 property other than structure or conveyance; providing