

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1117 w/ CS Trespassing upon Agricultural Land
SPONSOR(S): Troutman and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1480

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice (Sub)	6 Y, 0 N	Whittier	De La Paz
2) Public Safety & Crime Prevention	17 Y, 0 N w/CS	Whittier	De La Paz
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 1117 w/ CS provides that it is a third degree felony to willfully and maliciously break down, mar, injure, deface, cut, or otherwise create an opening, gap, interruption, or break in any fence or part of a fence that encloses land that is not the offender's own **if the fence is used to contain animals at the time of the offense.**

The bill appears to have no or minimal fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

B. EFFECT OF PROPOSED CHANGES:

In Central Florida, agricultural land owners have reported trouble with trespassers seeking psychedelic mushrooms that grow in manure. To gain access to the mushroom fields, trespassers have been cutting or kicking down fences, which have allowed livestock to escape. In a September 3, 2002, article, the *Orlando Sentinel* reported that a number of cattle ranchers claim that they chase off mushroom hunters several times a week.¹

Currently, in accordance with s. 810.115(1), F.S., it is a **first degree misdemeanor** if a person does the following:

[W]illfully and maliciously breaks down, mars, injures, defaces, cuts, or otherwise creates or causes to be created an opening, gap, interruption, or break in any fence, or any part thereof, belonging to or enclosing land not his or her own...

HB 1117 w/ CS provides that any person who willfully and maliciously breaks or injures a fence, as described in s. 810.115(1), F.S. (above), and the fence or any part of the fence is used to contain animals at the time of the offense, commits a **third degree felony**.

C. SECTION DIRECTORY:

Section 1: Amends s. 810.115, F.S.; relating to breaking or injuring fences.

Section 2: Provides an effective date of July 1, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None or minimal.
2. Expenditures: None or minimal.

¹ Pamela J. Johnson, “Ranchers’ problem mushrooms; rain has brought psychedelic fungi – and people seeking them – to pastures,” *Orlando Sentinel*, Sept. 3, 2002.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None or minimal.
2. Expenditures: None or minimal.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill should have a positive impact on the private sector by providing further protection to land owners from trespassers.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: N/A
2. Other: N/A

B. RULE-MAKING AUTHORITY: N/A

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

HB 1117 originally provided that any person who is trespassing on agricultural land and causes damage to fencing or any structure used to retain animals commits a third degree felony. It further provided that any motor vehicle and any other personal property used in damaging the fencing or structure are subject to seizure by law enforcement under the Florida Contraband Forfeiture Act.

On March 27, 2003, the Subcommittee on Criminal Justice adopted a strike-everything amendment that replaced the trespassing provision with language making it a third degree felony to willfully and maliciously break or injure a fence if it is used to contain animals at the time of the offense; and removed provisions regarding seizure of motor vehicles or any other personal property.

On April 2, 2003, the Committee on Public Safety & Crime Prevention adopted an amendment to the amendment which reworded the new language, making HB 1117 w/ CS identical to CS/CS/SB 1480. There was no apparent substantive change to the language.