

Council Substitute for House Bill No. 1427

An act relating to agriculture; creating ss. 570.96-570.962, F.S., relating to agritourism; authorizing the Department of Agriculture and Consumer Services to assist specified entities in agritourism promotion and marketing initiatives; providing definitions; specifying the impact of agritourism participation on certain land classifications; requiring local governments and agricultural representatives to meet to discuss agritourism; prescribing duties of the Department of Agriculture and Consumer Services with respect to purchase and sale of horses; requiring rules; providing that provision does not apply to certain sales; creating s. 810.125, F.S.; limiting liability for injury to certain trespassers on agricultural property; amending s. 810.011, F.S.; revising the definition of “posted land” to provide an alternative method of posting; amending s. 810.10, F.S.; increasing criminal penalties for certain offenses relating to notices on posted land; amending s. 810.115, F.S.; increasing criminal penalties for certain offenses relating to breaking or injuring fences; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Sections 570.96, 570.961, and 570.962, Florida Statutes, are created to read:

570.96 Agritourism.—The Department of Agriculture and Consumer Services may provide marketing advice, technical expertise, promotional support, and product development related to agritourism to assist the following in their agritourism initiatives: the Florida Commission on Tourism; convention and visitor bureaus; tourist development councils; economic development organizations; and local governments. In carrying out this responsibility, the department shall focus its agritourism efforts on rural and urban communities.

570.961 Definitions.—As used in ss. 570.96-570.962, the term:

(1) “Agritourism activity” means any activity carried out on a farm or ranch or in a forest that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historical, cultural, harvest-your-own, or nature-based activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity.

(2) “Agritourism professional” means any person who is engaged in the business of providing one or more agritourism activities, whether or not for compensation.

(3) “Farm” means the land, buildings, support facilities, machinery, and other appurtenances used in the production of farm or aquaculture products, including land used to display plants, animals, farm products, or farm equipment to the public.

(4) “Farm operation” has the same meaning as defined in s. 823.14.

570.962 Agritourism participation impact on land classification.—

(1) In order to promote and perpetuate agriculture throughout the state, farm operations are encouraged to engage in agritourism. The conduct of agritourism activity on a bona fide farm or on agricultural lands classified as such pursuant to s. 193.461 shall not limit, restrict, or divest the land of that classification.

(2) Local governments and agricultural representatives shall meet for the purpose of discussing the benefits of agritourism to local economies and opportunities for cooperation, conflict resolution, regulatory streamlining, and incentives.

Section 2. (1) The Department of Agriculture and Consumer Services shall examine the conditions surrounding the sale and purchase of horses and shall adopt rules pursuant to ss. 120.536(1) and 120.54, Florida Statutes, to prevent unfair or deceptive trade practices. Vertical integration of services and employees, in and of itself, shall not be considered an unfair or deceptive practice. The department’s examination shall include the following: the disclosure of the legal owner and buyer of the horse and any dual agency to the buyer and seller; the disclosure of relevant medical conditions, defects, and surgeries; the conduct or alterations that could affect the performance of a horse; and the need for a written bill of sale or similar documentation.

(2) This provision shall not apply to sales resulting from claiming races at licensed pari-mutuel facilities.

Section 3. Section 810.125, Florida Statutes, is created to read:

810.125 Injury to certain trespassers on agricultural land; recovery limited.—A person or organization owning, controlling, or possessing an interest in agricultural real property, or an agent of such person or organization, shall not be held liable for negligence related to such property that results in the death of, injury to, or damage to a person who has engaged or is engaging in conduct on the property that is unlawful under either s. 810.10 or s. 810.115 or unlawful trespassing by such person incident to such conduct on the property.

Section 4. Subsection (5) of section 810.011, Florida Statutes, is amended to read:

810.011 Definitions.—As used in this chapter:

(5)(a) “Posted land” is that land upon which:

1. Signs are placed not more than 500 feet apart along, and at each corner of, the boundaries of the land, upon which signs there appears prominently, in letters of not less than 2 inches in height, the words “no trespassing” and in addition thereto the name of the owner, lessee, or occupant of said land. Said signs shall be placed along the boundary line of posted land

in a manner and in such position as to be clearly noticeable from outside the boundary line; or;

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

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

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

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

b. Beginning October 1, 2007, when a landowner uses the painted no trespassing posting to identify a “no trespassing” area, those painted notices shall be accompanied by signs complying with subparagraph 1. and placed conspicuously at all places where entry to the property is normally expected or known to occur.

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

Section 5. Section 810.10, Florida Statutes, is amended to read:

810.10 Posted land; removing notices unlawful; penalty.—

(1) It is unlawful for any person to willfully remove, destroy, mutilate, or commit any act designed to remove, mutilate, or reduce the legibility or effectiveness of any posted notice placed by the owner, tenant, lessee, or occupant of legally enclosed or legally posted land pursuant to any law of this state for the purpose of legally enclosing the same.

(2) Any person violating the provisions of this section ~~commits shall be guilty of~~ a misdemeanor of the first ~~second~~ degree, punishable as provided in s. 775.082 or s. 775.083.

Section 6. Subsection (1) of section 810.115, Florida Statutes, is amended to read:

810.115 Breaking or injuring fences.—

(1) Whoever willfully 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, or whoever causes to be broken down, marred, injured, defaced, or cut any fence belonging to or enclosing land not his or her own, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A person who commits a second or

subsequent offense under this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 7. This act shall take effect upon becoming a law.

Approved by the Governor June 27, 2007.

Filed in Office Secretary of State June 27, 2007.