

DATE: April 17, 1979

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Sumner</u>	<u>Sumner</u>	1. <u>Ag.</u>	<u>Fav.wi.4</u>
2. _____	_____	2. <u>J.Crim.</u>	_____
3. _____	_____	3. _____	_____

SUBJECT: Theft of citrus

BILL No. AND SPONSOR:
SB 438 by
Senator Trask

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DEPARTMENT OF STATE
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I. SUMMARY:

A. Present Situation:

Presently, theft of citrus in value of less than \$100 is considered to be a second degree misdemeanor. With the price of citrus fluctuating, confusion in court cases, as to the value, often results in lengthy uncertain trials.

B. Effect of Proposed Changes:

By adding 1,000 individual pieces or more of citrus fruit to the third degree felony penalty provision, a more direct and exact charge may be levied against any person charged with theft of citrus fruit.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Growers may experience a lesser amount of loss from citrus fruit theft because of the more serious penalty and the exactness of the amount of fruit and value thereof.

B. Government:

It is possible that local government could receive more revenue from increased fines relative to the more severe penalty.

III. COMMENTS:

This measure has been approved by the Joint Citrus Industry Legislative Committee (JCILC).

IV. AMENDMENTS:

#1 by Agriculture:

Raises the figure of 1,000 to 2,000 pieces of citrus fruit in determining the basis for felony penalty.

#2 by Agriculture:

Adds limes, avocados, mangoes, and tomatoes to the list of fruit whereby a felony penalty may be applied for the theft of 2,000 pieces or more.

#3 & #4 by Agriculture:

Title Amendments to conform the title to the body of the bill.

April 17, 1979

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Sumner	Sumner	1. Ag.	Fav.wi.4
2. J. Smith	Dunn	2. J.Crim.	
3.		3.	

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DATE: July 19, 1979 (UPDATED)

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Sumner	Sumner	1. Ag.	Fav.wi.4
2. J. Smith	Dunn	2. J. Crim.	Fav.
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B. Effect of Proposed Changes:

By adding 2,000 individual pieces or more of citrus fruit to the third degree felony penalty provision, a more direct and exact charge may be levied against any person charged with theft of citrus fruit.

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It is possible that local government could receive more revenue from increased fines relative to the more severe penalty.

III. COMMENTS:

This measure has been approved by the Joint Citrus Industry Legislative Committee (JCILC).

SB 438 passed the Senate on May 9, 36-3 and the House on May 25, 96-0. Signed by the Governor on June 4 and assigned Chapter Number 79-124.

IV. AMENDMENTS:

None.



STATE OF FLORIDA

DEPARTMENT OF CITRUS

1115 E. MEMORIAL BLVD. / P.O. BOX 148 / LAKELAND, FLORIDA 33802

April 19, 1979

AGENCY HEAD
FLORIDA CITRUS COMMISSION
W. R. HANCOCK, Chairman

EXECUTIVE DIRECTOR
W. BERNARD LESTER
Phone 813/682-0171

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Senator Dick Anderson
224 Senate Office Building
Tallahassee, Florida 32301

RE: SB 438 (Trask) -- Increased Penalty for
Theft of Citrus

Dear Senator Anderson:

This letter will confirm our discussion of April 17, 1979, regarding your amendment to the above bill adopted by the Senate Agriculture Committee on April 17th, adding tomatoes, limes, avocados and mangos.

While the intent of your amendment was clearly to assist your growers of these items in prosecuting thefts of their products, I feel, after studying the amendment, that its actual legal effect may be exactly the reverse of your intention.

It is my understanding of criminal law that when a statute speaks in general terms and also in very specific terms, the specific prevails over the general. For example, as SB 438, as amended, now reads, if less than 2,000 pieces of citrus fruit are stolen, the crime would not be a felony of the third degree even if the 2,000 pieces of fruit had a value over \$100. The reason for this is that the proposed statute speaks specifically to what constituted a felony in the theft of citrus. Actually no problem exists with 2,000 pieces of citrus fruit at this time since 2,000 pieces of citrus currently have a FOB value of \$100-110.

However, since an individual lime, avocado, tomato or mango is substantially more valuable than an individual orange, the effect of your amendment would be to increase the value of these four items that can be stolen before the crime moves from a misdemeanor to a felony. For example, using the current average FOB values we find that 2,000 tomatoes have an approximate FOB value of \$300, 2,000 limes have an approximate FOB value of \$360, and 2,000 avocados or mangos would have an approximate FOB value of \$780. The end result of this is that one could steal today \$101 worth of avocados and be charged with a felony under the current statute, but under your amendment to that statute, the

Senator Dick Anderson
April 19, 1979
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the same person would have to steal at least 2,000 avocados valued at nearly \$800 before the crime would move from a misdemeanor to a felony.

Senator Anderson, you may well wish to check this legal interpretation with the Senate legal staff. If they concur then you may wish to withdraw your amendment when the bill comes to the Senate floor.

Senator, this letter is directed to you in the cooperative spirit of protecting the best interests of all agriculture and I am sure you will accept it in that manner.

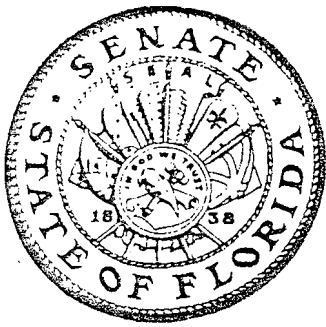
Sincerely,



Jay B. Havis
Administrative and
Legal Affairs Director
and Legislative Liaison

JBH/lw

cc: All Senate Agriculture
Committee Members
Mr. Amos Sumner



THE FLORIDA SENATE

COMMITTEE ON AGRICULTURE

44 Senate Office Building
Tallahassee, Florida 32304
(904) 488-2156

Senator Alan Trask, *Chairman*
Senator Curtis Peterson, *Vice Chairman*

E. Amos Sumner, *Staff Director*

April 23, 1979

MEMORANDUM

TO: Senator Dick Anderson
FROM: E. Amos Sumner *Amos*
SUBJ: SB 438--Theft of citrus and other fruits

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Skip Haviser, Attorney for the Department of Citrus, worked up approximate F.O.B. values for 2,000 pieces of citrus fruit and other fruits you are interested in. There is considerable disparity in the values which would suggest further amending the bill at some point to relieve the disparity. I applied a little math and came up with the following table for your use:

FRUIT	*F.O.B. VALUE 2,000 PIECES	*VALUE PER PIECE	*NUMBER PIECES EQUIVALENT TO 2,000 CITRUS FRUIT
citrus	\$105	.05	NA
tomatoes	300	.15	700
limes	360	.18	583
avocados	780	.35	300
mangoes	780	.35	300

*Figures are approximate.

Please call if I can be of further assistance.

EAS/th