

By Representative Futch

1 A bill to be entitled
2 An act relating to skateboarding and
3 rollerblading activities; creating s. 316.0085,
4 F.S., providing legislative purpose; providing
5 definitions; providing limitations on liability
6 with respect to governmental entities and
7 public employees with respect to persons who
8 participate in skateboarding or rollerblading
9 activities on property owned or leased by the
10 governmental entity; providing exceptions;
11 providing for liability of independent
12 concessionaires or other persons or
13 organizations for certain injuries or damages;
14 providing for the assumption of certain risks;
15 providing for the effect of certain insurance;
16 providing an effective date.

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

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20 Section 1. Section 316.0085, Florida Statutes, is
21 created to read:22 316.0085 Skateboarding; rollerblading; definitions;
23 liability.--24 (1) The purpose of this section is to encourage
25 governmental owners or lessees of property to make land
26 available to the public for skateboarding and rollerblading
27 activities. It is recognized that governmental owners or
28 lessees of property have failed to make property available for
29 such activities because of the exposure to liability from
30 lawsuits and the prohibitive cost of insurance, if insurance
31 can be obtained for such activities. It is also recognized

1 that risks and dangers are inherent in these activities, which
2 risks and dangers should be assumed by those participating in
3 such activities.

4 (2) As used in this section, the term:

5 (a) "Governmental entity" means:

6 1. The United States, the State of Florida, any county
7 or municipality, or any department, agency, or other
8 instrumentality thereof; and

9 2. Any school board, special district, authority or
10 other entity exercising governmental authority.

11 (b) "Inherent risk" means those dangers or conditions
12 that are characteristic of, intrinsic to, or an integral part
13 of skateboarding or rollerblading.

14 (3) No governmental entity or public employee shall be
15 liable to any person who participates in skateboarding or
16 rollerblading, any person who assists the participant, or any
17 spectator who was voluntarily in the place of risk or, having
18 the ability to do so, failed to leave, for any damage or
19 injury to property or persons arising out of any skateboarding
20 or rollerblading activity.

21 (4) This section does not limit liability which would
22 otherwise exist for any of the following:

23 (a) The failure of the governmental entity or public
24 employee to guard against or warn of a dangerous condition of
25 which he or she has actual or constructive notice and of which
26 a participant does not and cannot reasonably be expected to
27 have notice.

28 (b) An act of gross negligence by the governmental
29 entity or public employee that is the proximate cause of the
30 injury.

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1 (c) As to children under 17 years of age, if a
2 governmental entity that provides a designated area for
3 skateboarding or rollerblading fails to obtain the written
4 consent, in a form acceptable to the governmental entity, from
5 the parents or legal guardians of any child under 17 years of
6 age before authorizing such child or children to participate
7 in skateboarding or rollerblading in such designated area.

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9 Nothing in this subsection creates a duty of care or basis of
10 liability for death, personal injury, or damage to personal
11 property. Nothing in this section shall be deemed to be a
12 waiver of sovereign immunity under any circumstances.

13 (5) Nothing in this section shall limit the liability
14 of an independent concessionaire, or any person or
15 organization other than a governmental entity or public
16 employee, whether or not the person or organization has a
17 contractual relationship with a governmental entity to use the
18 public property, for injuries or damages suffered in any case
19 as a result of the operation of skateboards and rollerblades
20 on public property by the concessionaire, person, or
21 organization.

22 (6)(a) Any person who participates in, assists in, or
23 observes skateboarding or rollerblading assumes the known and
24 unknown inherent risks in these activities irrespective of
25 their age, and is legally responsible for all damages, injury
26 or death to himself, herself, or other persons or property
27 which result from these activities. No governmental entity
28 which sponsors, allows, or permits skateboarding or
29 rollerblading on its property is required to eliminate, alter,
30 or control the inherent risks in these activities.

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1 (b) While engaged in skateboarding or rollerblading,
2 irrespective of where such activities occur, a participant is
3 responsible for doing all of the following:

4 1. Acting within the limits of his or her ability and
5 the purpose and design of the equipment used.

6 2. Maintaining control of his or her person and the
7 equipment used.

8 3. Refraining from acting in any manner which may
9 cause or contribute to death or injury of himself, herself or
10 other persons.

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12 Failure to comply with the requirements of this paragraph
13 shall constitute negligence.

14 (7) The fact that a governmental entity carries
15 insurance which covers any act described in this section shall
16 not constitute a waiver of the protections set forth in this
17 section, regardless of the existence or limits of such
18 coverage.

19 Section 2. This act shall take effect upon becoming a
20 law.

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23 HOUSE SUMMARY

24 Creates a provision of law to encourage governmental
25 owners or lessees of property to make land available to
26 the public for skateboarding and rollerblading
27 activities. Provides that the risks and dangers inherent
28 in such activities should be assumed by those
29 participating in the activities. Defines the term
30 "governmental entity" to mean the United States, the
31 State of Florida, any county or municipality, or any
department, agency or other instrumentality thereof and
any school board, special district, authority, or other
entity exercising governmental authority. See bill for
details.