

By Senator Kurth

15-816-98

See HB

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 when 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 leave, failed to do so, 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 that 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 which 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 his  
25 or her age, and is legally responsible for all damages,  
26 injury, or death to himself, herself, or other persons or  
27 property which result from these activities. No governmental  
28 entity that 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 of or injury to himself or  
10 herself or other persons.

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

14           (7) The fact that a governmental entity carries  
15 insurance that covers any act described in this section does  
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           LEGISLATIVE 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.)