

By the Committee on Community Affairs and Senator Kurth

316-1965-98

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

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

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 21           Section 1. Section 316.0085, Florida Statutes, is  
 22           created to read:

23                   316.0085 Skateboarding; rollerblading; freestyle  
 24           bicycle riding; definitions; liability.--

25                   (1) The purpose of this section is to encourage  
 26           governmental owners or lessees of property to make land  
 27           available to the public for skateboarding, rollerblading, and  
 28           freestyle bicycle riding activities. It is recognized that  
 29           governmental owners or lessees of property have failed to make  
 30           property available for such activities because of the exposure  
 31           to liability from lawsuits and the prohibitive cost of

1 insurance, if insurance can be obtained for such activities.  
2 It is also recognized that risks and dangers are inherent in  
3 these activities, which risks and dangers should be assumed by  
4 those participating in such activities.

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

6 (a) "Governmental entity" means:

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

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

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

15 (3)(a) This section does not grant authority or  
16 permission for a person to engage in skateboarding,  
17 rollerblading, and freestyle bicycling activities on property  
18 owned or controlled by a governmental entity unless such  
19 governmental entity has specifically designated such area for  
20 skateboarding, rollerblading, and freestyle bicycling  
21 activities.

22 (b) No governmental entity or public employee shall be  
23 liable to any person who participates in skateboarding,  
24 rollerblading, or freestyle bicycle riding, any person who  
25 assists the participant, or any spectator who was voluntarily  
26 in the place of risk or, having the ability to do so, failed  
27 to leave, for any damage or injury to property or persons  
28 arising out of any skateboarding, rollerblading, or freestyle  
29 bicycle riding activity which takes place in an area  
30 designated for such activity.

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

3           (a) The failure of the governmental entity or public  
4 employee to guard against or warn of a dangerous condition of  
5 which he or she has actual or constructive notice and of which  
6 a participant does not and cannot reasonably be expected to  
7 have notice.

8           (b) An act of gross negligence by the governmental  
9 entity or public employee that is the proximate cause of the  
10 injury.

11           (c) As to children under 17 years of age, if a  
12 governmental entity that provides a designated area for  
13 skateboarding, rollerblading, or freestyle bicycle riding  
14 fails to obtain the written consent, in a form acceptable to  
15 the governmental entity, from the parents or legal guardians  
16 of any child under 17 years of age before authorizing such  
17 child or children to participate in skateboarding,  
18 rollerblading, or freestyle bicycle riding in such designated  
19 area.

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21 Nothing in this subsection creates a duty of care or basis of  
22 liability for death, personal injury, or damage to personal  
23 property. Nothing in this section shall be deemed to be a  
24 waiver of sovereign immunity under any circumstances.

25           (5) Nothing in this section shall limit the liability  
26 of an independent concessionaire, or any person or  
27 organization other than a governmental entity or public  
28 employee, whether or not the person or organization has a  
29 contractual relationship with a governmental entity to use the  
30 public property, for injuries or damages suffered in any case  
31 as a result of the operation of skateboards, rollerblades, or

1 freestyle bicycles on public property by the concessionaire,  
2 person, or organization.

3 (6)(a) Any person who participates in, assists in, or  
4 observes skateboarding, rollerblading, or freestyle bicycle  
5 riding assumes the known and unknown inherent risks in these  
6 activities irrespective of their age, and is legally  
7 responsible for all damages, injury or death to himself,  
8 herself, or other persons or property which result from these  
9 activities. No governmental entity which sponsors, allows, or  
10 permits skateboarding, rollerblading, or freestyle bicycle  
11 riding on property owned or leased by it is required to  
12 eliminate, alter, or control the inherent risks in these  
13 activities.

14 (b) While engaged in skateboarding, rollerblading, or  
15 freestyle bicycle riding, irrespective of where such  
16 activities occur, a participant is responsible for doing all  
17 of the following:

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

20 2. Maintaining control of his or her person and the  
21 equipment used.

22 3. Refraining from acting in any manner which may  
23 cause or contribute to the death of or injury to himself,  
24 herself, or other persons.

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26 Failure to comply with the requirements of this paragraph  
27 shall constitute negligence.

28 (7) The fact that a governmental entity carries  
29 insurance which covers any act described in this section shall  
30 not constitute a waiver of the protections set forth in this  
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1 section, regardless of the existence or limits of such  
2 coverage.

3 Section 2. This act shall take effect upon becoming a  
4 law.

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6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
7 COMMITTEE SUBSTITUTE FOR  
8 Senate Bill 820

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9 Expands the bill to apply to freestyle bicycle riding  
10 activities, in addition to skateboarding and rollerblading;

11 Clarifies that the bill does not grant authority to engage in  
12 these activities on government owned or controlled property  
13 unless the governmental entity has specifically designated an  
14 area for those activities; and

15 Provides that the limitation on liability applies to  
16 activities taking place within an area designated by the  
17 governmental entity for those activities.

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