

By the Committees on Judiciary, Community Affairs and Senator Kurth

308-2231-98

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 that the act does not limit liability
 7 of independent concessionaires or other persons
 8 or organizations for certain injuries or
 9 damages; providing for the assumption of
 10 certain risks; providing for the effect of
 11 certain insurance; providing an effective date.

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

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 15 Section 1. Section 316.0085, Florida Statutes, is
 16 created to read:

17 316.0085 Skateboarding; rollerblading; freestyle
 18 bicycle riding; definitions; liability.--

19 (1) The purpose of this section is to encourage
 20 governmental owners or lessees of property to make land
 21 available to the public for skateboarding, rollerblading, and
 22 freestyle bicycle riding activities. It is recognized that
 23 governmental owners or lessees of property have failed to make
 24 property available for such activities because of the exposure
 25 to liability from lawsuits and the prohibitive cost of
 26 insurance, if insurance can be obtained for such activities.
 27 It is also recognized that risks and dangers are inherent in
 28 these activities, which risks and dangers should be assumed by
 29 those participating in such activities.

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

31 (a) "Governmental entity" means:

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

4 2. Any school board, special district, authority, or
5 other entity exercising governmental authority.

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

9 (3) This section does not grant authority or
10 permission for a person to engage in skateboarding,
11 rollerblading, or freestyle bicycling activities on property
12 owned or controlled by a governmental entity unless such
13 governmental entity has specifically designated such area for
14 skateboarding, rollerblading, and freestyle bicycling
15 activities.

16 (4) This section does not limit liability that would
17 otherwise exist for any of the following:

18 (a) The failure of the governmental entity or public
19 employee to guard against or warn of a dangerous condition of
20 which he or she has actual or constructive notice and of which
21 a participant does not and cannot reasonably be expected to
22 have notice.

23 (b) An act of gross negligence by the governmental
24 entity or public employee that is the proximate cause of the
25 injury.

26 (c) As to children under 17 years of age, if a
27 governmental entity that provides a designated area for
28 skateboarding, rollerblading, or freestyle bicycle riding
29 fails to obtain the written consent, in a form acceptable to
30 the governmental entity, from the parents or legal guardians
31 of any child under 17 years of age before authorizing such

1 child or children to participate in skateboarding,
2 rollerblading, or freestyle bicycle riding in such designated
3 area.

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5 Nothing in this subsection creates a duty of care or basis of
6 liability for death, personal injury, or damage to personal
7 property. Nothing in this section shall be deemed to be a
8 waiver of sovereign immunity under any circumstances.

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

18 (6)(a) Any person who participates in, assists in, or
19 observes skateboarding, rollerblading, or freestyle bicycle
20 riding assumes the known and unknown inherent risks in these
21 activities irrespective of his or her age and is legally
22 responsible for all damages, injury, or death to himself,
23 herself, or other persons or property which result from these
24 activities. No governmental entity that sponsors, allows, or
25 permits skateboarding, rollerblading, or freestyle bicycle
26 riding on property owned or leased by it is required to
27 eliminate, alter, or control the inherent risks in these
28 activities.

29 (b) While engaged in skateboarding, rollerblading, or
30 freestyle bicycle riding, irrespective of where such

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1 activities occur, a participant is responsible for doing all
2 of the following:

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

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

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

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

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

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

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21 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
22 COMMITTEE SUBSTITUTE FOR
23 CS for SB 820

24 The Committee Substitute for Committee Substitute for Senate
25 Bill 820 deletes a provision that no governmental entity or
26 public employee is to be liable to a participant in
27 skateboarding, rollerblading, or freestyle bicycle riding, to
28 any person assisting the participant, or to any spectator who
29 was voluntarily in a place of risk for any damage or injury to
30 person or property arising out of any skateboarding,
31 rollerblading, or freestyle bicycle riding activity which
takes place in an area designated for such activities.