

By Senator Kurth

15-146-99

1                                   A bill to be entitled  
2           An act relating to skateboarding, freestyle  
3           bicycling, and inline skating 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, inline skating, 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; inline skating; 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, inline skating, and  
28          freestyle bicycle riding activities. It is recognized that in  
29          the past governmental owners or lessees of property have  
30          failed to make property available for such activities because  
31          of the exposure to liability from lawsuits and the prohibitive

1 cost of insurance, if insurance can be obtained for such  
2 activities. It is also recognized that risks and dangers are  
3 inherent in these activities and that these risks and dangers  
4 should be assumed by those participating in the 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, inline skating, and freestyle bicycle  
15 riding.

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

22 (4) Neither a governmental entity nor a public  
23 employee is liable to any person who voluntarily participates  
24 in skateboarding, inline skating, or freestyle bicycle riding  
25 for any damage or injury to property or persons which arises  
26 out of a person's participation in such activity and which  
27 occurs in an area designated for such activity.

28 (5) This section does not limit liability that would  
29 otherwise exist for any of the following:

30 (a) The failure of the governmental entity or public  
31 employee to guard against or warn of a dangerous condition of

1 which the governmental entity or public employee has actual or  
2 constructive notice and of which a participant does not and  
3 cannot reasonably be expected to have notice.

4 (b) An act of gross negligence by the governmental  
5 entity or public employee which is the proximate cause of the  
6 injury.

7 (c) With respect to children under 17 years of age, if  
8 a governmental entity that provides a designated area for  
9 skateboarding, inline skating, or freestyle bicycle riding  
10 fails to obtain written consent, in a form acceptable to the  
11 governmental entity, from the parents or legal guardians of  
12 such a child before authorizing the child to participate in  
13 skateboarding, inline skating, or freestyle bicycle riding in  
14 the designated area.

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16 This subsection does not create a duty of care or basis of  
17 liability for death, personal injury, or damage to personal  
18 property. This section does not constitute a waiver of  
19 sovereign immunity under any circumstances.

20 (6) This section does not limit the liability of an  
21 independent concessionaire, or of any person or organization  
22 other than a governmental entity or public employee, whether  
23 or not the person or organization has a contractual  
24 relationship with a governmental entity to use the public  
25 property, for any injuries or damages suffered as a result of  
26 the operation of skateboards, inline skates, or freestyle  
27 bicycles on public property by the concessionaire, person, or  
28 organization.

29 (7)(a) Any person who participates in, assists in, or  
30 observes skateboarding, inline skating, or freestyle bicycle  
31 riding assumes the known and unknown inherent risks in these

1 activities, irrespective of the person's age, and is legally  
2 responsible for all damages, injury, or death to himself or  
3 herself, or to other persons or property, which result from  
4 these activities. A governmental entity that sponsors, allows,  
5 or permits skateboarding, inline skating, or freestyle bicycle  
6 riding on its property is not required to eliminate, alter, or  
7 control the inherent risks in these activities.

8 (b) While engaged in skateboarding, inline skating, or  
9 freestyle bicycle riding, irrespective of where such  
10 activities occur, a participant is responsible for:

11 1. Acting within the limits of his or her ability and  
12 the purpose and design of the equipment used;

13 2. Maintaining control of his or her person and the  
14 equipment used; and

15 3. Refraining from acting in any manner that may cause  
16 or contribute to death or injury of himself, herself, or other  
17 persons.

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19 Failure to comply with this paragraph constitutes negligence.

20 (8) The fact that a governmental entity carries  
21 insurance that covers any act described in this section does  
22 not constitute a waiver of the protections set forth in this  
23 section, regardless of the existence or limits of such  
24 coverage.

25 Section 2. This act shall take effect upon becoming a  
26 law.

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SENATE SUMMARY

Provides legislative purpose and definitions relating to skateboarding, freestyle bicycling, and inline skating activities. Provides limitations on liability of governmental entities and public employees with respect to persons who participate in such activities on property owned or leased by the governmental entity. Provides exceptions. Provides for liability of independent concessionaires or other persons or organizations for certain injuries or damages. Provides for the assumption of certain risks. Provides for the effect of certain insurance.