

By the Committee on Judiciary and Representatives Futch
and Warner

1 A bill to be entitled
2 An act relating to skateboarding, inline
3 skating, and freestyle bicycling; creating s.
4 316.0085, F.S.; providing legislative purpose;
5 providing definitions; providing limitations on
6 liability with respect to governmental entities
7 and public employees with respect to persons
8 who participate in skateboarding, inline
9 skating, or freestyle bicycling on property
10 owned or leased by the governmental entity;
11 providing exceptions; providing for liability
12 of independent concessionaires or other persons
13 or organizations for certain injuries or
14 damages; providing for the assumption of
15 certain risks; providing for the effect of
16 certain insurance; 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; inline skating; freestyle
23 bicycling; definitions; 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, inline skating, and
27 freestyle bicycling. It is recognized that governmental owners
28 or lessees of property have failed to make property available
29 for 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.

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, inline skating, and freestyle bicycling.

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

20 (4) No governmental entity or public employee shall be
21 liable to any person who voluntarily participates in
22 skateboarding, inline skating, or freestyle bicycling for any
23 damage or injury to property or persons which arises out of a
24 person's participation in such activity, and which takes place
25 in an area designated for such activity.

26 (5) This section does not limit liability which would
27 otherwise exist for any of the following:

28 (a) The failure of the governmental entity or public
29 employee to guard against or warn of a dangerous condition of
30 which a participant does not and cannot reasonably be expected
31 to have notice.

1 (b) An act of gross negligence by the governmental
2 entity or public employee that is the proximate cause of the
3 injury.

4 (c) The failure of a governmental entity that provides
5 a designated area for skateboarding, inline skating, or
6 freestyle bicycling to obtain the written consent, in a form
7 acceptable to the governmental entity, from the parents or
8 legal guardians of any child under 17 years of age before
9 authorizing such child to participate in skateboarding, inline
10 skating, or freestyle bicycling in such designated area,
11 unless that child's participation is in violation of posted
12 rules governing the hours of authorized use of the designated
13 area.

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15 Nothing in this subsection creates a duty of care or basis of
16 liability for death, personal injury, or damage to personal
17 property. Nothing in this section shall be deemed to be a
18 waiver of sovereign immunity under any circumstances.

19 (6) Nothing in this section shall limit the liability
20 of an independent concessionaire, or any person or
21 organization other than a governmental entity or public
22 employee, whether or not the person or organization has a
23 contractual relationship with a governmental entity to use the
24 public property, for injuries or damages suffered in any case
25 as a result of the operation of skateboards, inline skates, or
26 freestyle bicycles on public property by the concessionaire,
27 person, or organization.

28 (7)(a) Any person who participates in, assists in, or
29 observes skateboarding, inline skating, or freestyle bicycling
30 assumes the known and unknown inherent risks in these
31 activities irrespective of age, and is legally responsible for

1 all damages, injury or death to himself or herself, or other
2 persons or property which result from these activities. No
3 governmental entity which sponsors, allows, or permits
4 skateboarding, inline skating, or freestyle bicycling on its
5 property is required to eliminate, alter, or control the
6 inherent risks in these activities.

7 (b) While engaged in skateboarding, inline skating, or
8 freestyle bicycling, irrespective of where such activities
9 occur, a participant is responsible for doing all of the
10 following:

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.

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

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19 Failure to comply with the requirements of this paragraph
20 shall constitute negligence.

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

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

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HOUSE SUMMARY

Provides limitations on liability with respect to governmental entities and public employees with respect to persons who participate in skateboarding, inline skating, or freestyle bicycling on property owned or leased by the governmental entity. Provides for the liability of independent concessionaires or other persons or organizations for described injuries or damages. Provides for the assumption of described risks. See bill for details.