

By Senator Kirkpatrick

5-10-99

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 of
7 governmental entities and public employees with
8 respect to persons who participate in
9 skateboarding, inline skating, or freestyle
10 bicycle riding on property owned or leased by
11 the governmental entity; providing exceptions;
12 providing for liability of independent
13 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
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 the United States; the
7 State of Florida, any of its counties or municipalities, or
8 any department, agency, or other instrumentality thereof; or
9 any school board, special district, authority, or other entity
10 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 bicycle
14 riding.

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

22 (4) A governmental entity or public employee is not
23 liable to any person who voluntarily participates in
24 skateboarding, inline skating, or freestyle bicycle riding for
25 any damage or injury to property or persons which arises out
26 of a person's participation in such activity and which takes
27 place 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 he or she has actual or constructive notice and of which
2 a participant does not and cannot reasonably be expected to
3 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) The failure of a governmental entity that provides
8 a designated area for skateboarding, inline skating, or
9 freestyle bicycle riding to obtain written consent from the
10 parents or legal guardians of any child under 17 years of age
11 before allowing that child to participate in any of those
12 activities in that designated area.

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

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

27 (7)(a) Any person who participates in, assists in, or
28 observes skateboarding, inline skating, or freestyle bicycle
29 riding assumes the known and unknown inherent risks in these
30 activities irrespective of his or her age and is legally
31 responsible for all damages, injury, or death to himself,

1 herself, or other persons or property which results from these
2 activities. A governmental entity that sponsors, allows, or
3 permits skateboarding, inline skating, or freestyle bicycle
4 riding on its property is not required to eliminate, alter, or
5 control the inherent risks in these activities.

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

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

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

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

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18 Failure to comply with the requirements of this paragraph
19 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 limited immunity from liability for governmental entities and public employees when the entities make available land for public use in skateboarding, inline skating, and freestyle bicycling. The immunity does not attach when the governmental entity or public employee fails to warn of a dangerous condition, acts in a grossly negligent manner, or fails to obtain the written consent of the parent or guardian of a minor under 17 years of age for the minor to engage in such activities. Expressly declares that persons participating in, assisting in, or observing such activities assume the inherent risks.