



HB 1497

2003

A bill to be entitled

An act relating to transportation facilities; amending s. 334.044; revising powers and duties of the Department of Transportation; providing for the department to plan, acquire, lease, construct, and maintain the Florida Trail; creating s. 334.352, F.S.; creating the Florida Trail Program within the Department of Transportation; providing purpose; authorizing the department to appropriate described right-of-way; requiring the department to acquire interest in certain lands under described conditions; providing for identification and acquisition, of lands for the trail; providing certain protections of landowners; providing for landowners making land available for public use; limiting liability of landowners for specified purposes; providing specified liability insurance for certain landowners under described conditions; authorizing the department to accept certain funds; providing an effective date.

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

Section 1. Subsection (32) is added to section 334.044, Florida Statutes, to read:

334.044 Department; powers and duties.--The department shall have the following general powers and duties:

(32) To plan, acquire, lease, construct, and maintain the Florida Trail pursuant to the guidance and limitations provided in s. 334.352.

Section 2. Section 334.352, Florida Statutes, is created to read:



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31 334.352 Florida Trail Program.--

32 (1) There is established within the department the
 33 "Florida Trail Program," the purpose of which is to facilitate
 34 the establishment of a 1,300 mile system of trails. Such trails
 35 shall be acquired by written consent of the landowner or
 36 pursuant to the department's authority under s. 334.044(6) using
 37 the process provided in chapter 74 after exhaustion of other
 38 alternative means as provided in s. 73.015. Identification of
 39 lands in such information shall not:

40 (a) Require or empower any unit of local or regional
 41 government, or any state agency, to impose additional or more
 42 restrictive environmental, land-use, or zoning regulations;

43 (b) Be construed or cited as authority to adopt, enforce,
 44 or amend any environmental rule or regulation; comprehensive
 45 plan goals, policies, or objectives; or zoning or land-use
 46 ordinance; or

47 (c) Be used as the basis for permit denial; imposition of
 48 any permit condition; or application of any rule, regulation, or
 49 state government.

50 (2) The department is authorized to appropriate a right-
 51 of-way with a minimum width of 3 feet for purposes consistent
 52 with this section.

53 (3)(a) A private landowner whose land is designated as
 54 part of the Florida Trail Program pursuant to this section,
 55 including a person holding a subservient interest, owes no duty
 56 of care to keep that land safe for entry or use by others or to
 57 give warning to persons entering that land of any hazardous
 58 conditions, structures, or activities thereon. Such landowner
 59 shall not:



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60 1. Be presumed to extend any assurance that such land is
61 safe for any purpose;

62 2. Incur any duty of care toward a person who goes on the
63 land; or

64 3. Become liable or responsible for any injury to persons
65 or property caused by the act or omission of a person who goes
66 on the land.

67 (b) The provisions of paragraph (a) apply whether the
68 person going on the designated trail is an invitee, licensee,
69 trespasser, or otherwise.

70 (4) Any private landowner who consents to designation of
71 his or her land as part of the Florida Trail Program pursuant to
72 this section without compensation shall be considered a
73 volunteer, as defined in s. 110.501, and shall be covered by
74 state liability protection pursuant to s. 768.28, including s.
75 768.28(9).

76 (5)(a) The provisions of subsection (3) shall not apply if
77 there is any charge made or usually made by the landowner for
78 entering or using the land designated as a trail, or any part
79 thereof, or if any commercial or other activity whereby profit
80 is derived by the landowner from the patronage of the general
81 public is conducted on the land so designated or any part
82 thereof.

83 (b) Incentives granted by any unit of government to the
84 private landowner, including tax incentives, grants, or other
85 financial consideration specific to the development or
86 management of designated trails, shall not be construed as a
87 charge for use or profit derived from patronage for purposes of
88 this subsection and shall not be construed as monetary or
89 material compensation for purposes of subsection (4).



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90 (6) The provisions of subsection (3) shall also apply to
91 adjacent land owned by the private landowner who consents to
92 designation of a trail where such adjacent land is accessed
93 through the land so designated.

94 (7)(a) When a private landowner agrees to make his or her
95 land available for public use as a designated trail, the
96 department or its designee shall post notices along the boundary
97 of the designated trail which inform the public that the land
98 adjacent to the trail is private property upon which
99 unauthorized entry for any purpose is prohibited and constitutes
100 trespassing.

101 (b) Such notices must comply with s. 810.011(5) and shall
102 constitute a warning to unauthorized persons to remain off the
103 private property and not to depart from the designated trail.
104 Any person who commits such an unauthorized entry commits a
105 trespass as provided in s. 810.09.

106 (8) If agreed to by the department and the landowner in
107 the designation agreement, a landowner whose land is designated
108 as part of the statewide system of trails pursuant to this
109 section shall be indemnified for:

110 (a) Any injury or damage incurred by a third party arising
111 out of the use of the designated trail;

112 (b) Any injury or damage incurred by a third party on
113 lands adjacent to and accessed through the designated trail; and

114 (c) Any damage to the landowner's property, including land
115 adjacent to and accessed through the designated trail, caused by
116 the act or omission of a third person resulting from any use of
117 the land so designated.

118 (9) This section does not relieve any person of liability
119 that would otherwise exist for deliberate, willful, or malicious



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120 injury to persons or property. The provisions of this section
121 shall not be deemed to create or increase the liability of any
122 person.

123 (10) The department shall be empowered to accept state and
124 federal funds, grants, and donations of any type of property,
125 labor, or other thing of value from any public or private source
126 that are bequests for purposes of the trail.

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