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2 An act relating to exemptions from liability  
3 for governmental property owners or lessees and  
4 public employees; amending s. 316.0085, F.S.;  
5 including the game of paintball in the  
6 exemption from liability granted to  
7 governmental property owners or lessees and  
8 public employees; requiring governmental  
9 entities to post rules indicating that written  
10 parental consent is required for minors;  
11 revising the exemptions from immunity provided  
12 by the act; 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 requirements for participants in the  
17 game of paintball; 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 amended to read:

23 316.0085 Skateboarding; inline skating; freestyle  
24 bicycling; paintball; 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,  
28 paintball, and freestyle bicycling. 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:

7 1. The United States, the State of Florida, any county  
8 or municipality, or any department, agency, or other  
9 instrumentality thereof.

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, paintball, and freestyle  
15 bicycling.

16 (3) This section does not grant authority or  
17 permission for a person to engage in skateboarding, inline  
18 skating, paintball, or freestyle bicycling on property owned  
19 or controlled by a governmental entity unless such  
20 governmental entity has specifically designated such area for  
21 skateboarding, inline skating, paintball, or ~~and~~ freestyle  
22 bicycling. Each governmental entity shall post a rule in each  
23 specifically designated area that identifies all authorized  
24 activities and indicates that a child under 17 years of age  
25 may not engage in any of those activities until the  
26 governmental entity has obtained written consent, in a form  
27 acceptable to the governmental entity, from the child's  
28 parents or legal guardians.

29 (4) ~~A No~~ governmental entity or public employee is not  
30 ~~shall be~~ liable to any person who voluntarily participates in  
31 skateboarding, inline skating, paintball, or freestyle

1 bicycling for any damage or injury to property or persons  
2 which arises out of a person's participation in such activity,  
3 and which takes place in an area designated for such activity.

4 (5) This section does not limit liability ~~that which~~  
5 would otherwise exist for any of the following:

6 (a) The failure of the governmental entity or public  
7 employee to guard against or warn of a dangerous condition of  
8 which a participant does not and cannot reasonably be expected  
9 to have notice.

10 (b) An act of gross negligence by the governmental  
11 entity or public employee that is the proximate cause of the  
12 injury.

13 (c) The failure of a governmental entity that provides  
14 a designated area for skateboarding, inline skating,  
15 paintball, or freestyle bicycling to obtain the written  
16 consent, in a form acceptable to the governmental entity, from  
17 the parents or legal guardians of any child under 17 years of  
18 age before authorizing such child to participate in  
19 skateboarding, inline skating, paintball, or freestyle  
20 bicycling in such designated area, unless that child's  
21 participation is in violation of posted rules governing the  
22 ~~hours of~~ authorized use of the designated area.

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24 Nothing in this subsection creates a duty of care or basis of  
25 liability for death, personal injury, or damage to personal  
26 property. Nothing in this section shall be deemed to be a  
27 waiver of sovereign immunity under any circumstances.

28 (6) Nothing in this section shall limit the liability  
29 of an independent concessionaire, or any person or  
30 organization other than a governmental entity or public  
31 employee, whether or not the person or organization has a

1 contractual relationship with a governmental entity to use the  
2 public property, for injuries or damages suffered in any case  
3 as a result of the operation of skateboards, inline skates,  
4 paintball equipment, or freestyle bicycles on public property  
5 by the concessionaire, person, or organization.

6 (7)(a) Any person who participates in or assists in  
7 skateboarding, inline skating, paintball, or freestyle  
8 bicycling assumes the known and unknown inherent risks in  
9 these activities irrespective of age, and is legally  
10 responsible for all damages, injury, or death to himself or  
11 herself or other persons or property which result from these  
12 activities. Any person who observes skateboarding, inline  
13 skating, paintball, or freestyle bicycling assumes the known  
14 and unknown inherent risks in these activities irrespective of  
15 age, and is legally responsible for all damages, injury, or  
16 death to himself or herself which result from these  
17 activities. ~~A No~~ governmental entity ~~that which~~ sponsors,  
18 allows, or permits skateboarding, inline skating, paintball,  
19 or freestyle bicycling on its property is not required to  
20 eliminate, alter, or control the inherent risks in these  
21 activities.

22 (b) While engaged in skateboarding, inline skating,  
23 paintball, or freestyle bicycling, irrespective of where such  
24 activities occur, a participant is responsible for doing all  
25 of the following:

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

28 2. Maintaining control of his or her person and the  
29 equipment used.

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

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5 Failure to comply with the requirements of this paragraph  
6 shall constitute negligence.

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

12           Section 2. This act shall take effect July 1, 2004.

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