

Bill No. SB 1790

Barcode 911800

CHAMBER ACTION

Senate

House

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

WD
04/12/2005 02:33 PM

.
. .
. .
. .
. .
. .

The Committee on Judiciary (Webster) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 768.1382, Florida Statutes, is created to read:

768.1382 Streetlights, security lights, and other similar illumination; limitation on liability.--

(1) As used in this section, the term:

(a) "Actual notice" means notice of an inoperative or malfunctioning streetlight, which notice is provided to the streetlight provider by the streetlight customer using designated procedures specified by the streetlight provider, acknowledged by the streetlight provider in accordance with its designated procedures, and contains at least the following information:

1. Identification of the streetlight location with such specificity that the location of the streetlight can be

Bill No. SB 1790

Barcode 911800

1 identified by the streetlight provider.

2 2. A description of the nature of the malfunction or
3 failure of illumination of the streetlight.

4 3. Appropriate contact information as available, such
5 as the name, address, electronic mail address, and phone
6 number of the person making the notification.

7 (b) "Designated procedures" means the procedures
8 designated by a streetlight provider to provide actual notice
9 as defined in paragraph (a).

10 (c) "Person" means any legal or natural person as
11 defined in s. 1.01(3).

12 (d) "Streetlight" means any streetlight, any outdoor
13 security light, or any outdoor area light that is owned or
14 maintained by or for a streetlight provider. The term
15 "streetlight" does not include any customer-owned or
16 customer-maintained streetlight of any type, regardless of its
17 location.

18 (e) "Streetlight customer" means the person with the
19 responsibility for paying a utility bill for a streetlight.

20 (f) "Streetlight provider" means the state or any of
21 the state's officers, agencies, or instrumentalities, any
22 political subdivision as defined in s. 1.01, any public
23 utility as defined in s. 366.02(1), or any electric utility as
24 defined in s. 366.02(2).

25 (2) A streetlight provider is not liable and may not
26 be held liable for any civil damages for personal injury,
27 wrongful death, or property damage affected or caused by the
28 malfunction or failure of illumination of such streetlight,
29 regardless of whether the malfunction or failure of
30 illumination is alleged or demonstrated to have contributed in
31 any manner to the personal injury, wrongful death, or property

Bill No. SB 1790

Barcode 911800

1 damage, unless the provider has failed to comply with the
 2 provisions of subsection (3). A streetlight provider does not
 3 have a duty to the general public to own or maintain any
 4 streetlight in any manner unless such duty was expressly
 5 assumed by written contract. Any duty owed by a streetlight
 6 provider is limited to those obligations that are expressly
 7 assumed in a written contract with a customer of a streetlight
 8 provider and are solely for the benefit of the parties to such
 9 written contract.

10 (3) In order for any streetlight provider to have the
 11 benefit of the limitation on liability as set forth in
 12 subsection (2), the streetlight provider must have complied
 13 with the following:

14 (a) The streetlight provider must disclose its
 15 designated procedures for providing actual notice of an
 16 inoperative or malfunctioning streetlight to its customers
 17 through annual inserts in its customers' bills. The
 18 streetlight provider must disclose its designated procedures
 19 for providing actual notice of an inoperative or
 20 malfunctioning streetlight to the general public, and to its
 21 customers if bill inserts are not used, in an annual notice
 22 paid for by the streetlight provider and published in the
 23 relevant newspapers of general circulation.

24 (b) A streetlight provider must repair any inoperative
 25 or malfunctioning streetlight within 60 days after receiving
 26 actual notice that the streetlight is inoperative or
 27 malfunctioning.

28 (c) If a streetlight provider repairs the inoperative
 29 or malfunctioning streetlight and the streetlight subsequently
 30 again becomes inoperative or malfunctioning, the streetlight
 31 provider shall repair such inoperative or malfunctioning

Bill No. SB 1790

Barcode 911800

1 streetlight within 60 days after receiving actual notice that
2 the streetlight is again inoperative or malfunctioning
3 subsequent to the prior repair.

4 (d) After a streetlight provider receives actual
5 notice, investigates the report, and determines that the
6 streetlight is functioning properly, such information shall be
7 noted in the streetlight provider's business records. Upon
8 receipt of any subsequent actual notice that the streetlight
9 is again inoperative or malfunctioning, the streetlight
10 provider shall repair the streetlight within 60 days after
11 receiving such subsequent actual notice.

12 (e) If, upon investigation by the streetlight provider
13 after receiving actual notice of any event described in
14 paragraph (b), paragraph (c), or paragraph (d), the
15 streetlight provider determines that the nature of the repair
16 or replacement cannot be achieved within the 60-day period,
17 the streetlight provider shall make a determination as to the
18 time in which it can complete the corrective action and denote
19 such time in its business records. Except as provided in
20 paragraph (f), a streetlight provider under this paragraph may
21 not take more than 180 days to complete the corrective action
22 after receiving actual notice unless such longer delay is
23 related to actions or decisions made or required by the
24 customer with the responsibility for paying the utility bill
25 for such streetlight or related to a tornado, a severe weather
26 event, or other unforeseen event resulting in severe damage
27 that does not give rise to a declared state of emergency, in
28 which case the streetlight provider shall be subject to the
29 time periods set forth in paragraph (f).

30 (f) For a streetlight provider operating in a county
31 affected by a state of emergency declared by federal, state,

Bill No. SB 1790

Barcode 911800

1 or local authorities, the time periods in paragraph (b),
 2 paragraph (c), paragraph (d), or paragraph (e) shall be
 3 extended to 365 days after the cessation of the emergency or
 4 such longer period of time that may be dictated by the
 5 circumstances or 60 days after receiving actual notice that
 6 the streetlight is inoperative or malfunctioning, whichever is
 7 later.

8 (4) Where the streetlight provider is a public utility
 9 or an electric utility, the streetlight provider is not liable
 10 for any civil damages for personal injury, wrongful death, or
 11 property damage affected or caused by the failure of
 12 illumination of such streetlights, regardless of whether the
 13 failure of illumination is alleged or demonstrated to have
 14 contributed in any manner to the personal injury, wrongful
 15 death, or property damage, if the streetlight provider
 16 disconnected electric or gas service to the streetlight upon
 17 the streetlight customer's request or as a result of the
 18 streetlight customer's failure to pay electric or gas bills
 19 when due or other breach of the applicable streetlight
 20 agreement or upon termination of the applicable streetlight
 21 agreement. In no event shall a public utility or electric
 22 utility be liable or held liable for civil damages for
 23 personal injury, wrongful death, or property damage under any
 24 circumstance affected or caused by the design, layout,
 25 quantity, or placement of streetlights or level of
 26 illumination resulting from the proper operation of a
 27 streetlight or series of streetlights.

28 (5) In any civil action for damages arising out of
 29 personal injury, wrongful death, or property damage when a
 30 streetlight provider's fault regarding the provision or
 31 maintenance of streetlights is at issue, if the streetlight

Bill No. SB 1790

Barcode 911800

1 provider responsible for providing or maintaining the
 2 streetlights is immune from liability pursuant to this section
 3 or is not a party to the litigation, such streetlight provider
 4 may not be named on the jury verdict form or be deemed or
 5 found in such action to be in any way at fault or responsible
 6 for the injury or death or damage that gave rise to the
 7 damages.

8 (6) In no event shall a streetlight provider's
 9 noncompliance with the provisions of subsection (3) create a
 10 presumption of negligence on the part of the streetlight
 11 provider in any civil action for damages arising out of
 12 personal injury, wrongful death, or property damage.

13 (7) In the event that there is any conflict between
 14 this section and s. 768.81, or any other section of Florida
 15 Statutes, this section shall control. Further, nothing in this
 16 section shall impact or waive any provision of s. 768.28.

17 Section 2. This act shall take effect upon becoming a
 18 law and shall apply to causes of action that accrue on or
 19 after the effective date.

20
 21

22 ===== T I T L E A M E N D M E N T =====

23 And the title is amended as follows:

24 Delete everything before the enacting clause

25

26 and insert:

27 A bill to be entitled

28 An act relating to liability of providers of
 29 streetlights; creating s. 768.1382, F.S.;
 30 providing definitions; including certain
 31 security or area lights within the definition

Bill No. SB 1790

Barcode 911800

1 of the term "streetlight"; limiting liability
2 of a streetlight provider for injury or death
3 or property damage affected or caused by a
4 malfunctioning streetlight; providing
5 procedures for notice and repair of
6 malfunctioning streetlights as a condition for
7 limited liability; providing that noncompliance
8 with such procedures does not create a
9 presumption of negligence; limiting liability
10 of a public utility or electric utility that
11 discontinues service to a streetlight under
12 certain circumstances; limiting liability of a
13 public utility or electric utility for the
14 design, layout, quantity, or placement of
15 streetlights or level of illumination resulting
16 from the proper operation of a streetlight or
17 series of streetlights; prohibiting certain
18 findings of fault of an entity not a party to
19 litigation; providing for conflict, effect, and
20 application; providing an effective date.

21
22
23
24
25
26
27
28
29
30
31