

Bill No. CS for SB 1742

Barcode 864950

CHAMBER ACTION

Senate

House

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The Committee on Domestic Security (Diaz de la Portilla)  
recommended the following **amendment to amendment** (720760):

**Senate Amendment (with title amendment)**

On page 67, between lines 16 and 17,

insert:

Section 33. Section 316.0085, Florida Statutes, is  
amended to read:

316.0085 Skateboarding; inline skating; freestyle or  
mountain and off-road bicycling; paintball; definitions;  
liability.--

(1) The purpose of this section is to encourage  
governmental owners or lessees of property to make land  
available to the public for skateboarding, inline skating,  
paintball, and freestyle or mountain and off-road bicycling.

It is recognized that governmental owners or lessees of  
property have failed to make property available for such  
activities because of the exposure to liability from lawsuits  
and the prohibitive cost of insurance, if insurance can be  
obtained for such activities. It is also recognized that risks

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1 and dangers are inherent in these activities, which risks and  
2 dangers should be assumed by those participating in such  
3 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, paintball, and freestyle or  
14 mountain and off-road bicycling.

15 (3) This section does not grant authority or  
16 permission for a person to engage in skateboarding, inline  
17 skating, paintball, or freestyle or mountain and off-road  
18 bicycling on property owned or controlled by a governmental  
19 entity unless such governmental entity has specifically  
20 designated such area for skateboarding, inline skating,  
21 paintball, or freestyle or mountain and off-road bicycling.  
22 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 governmental entity or public employee is not  
30 liable to any person who voluntarily participates in  
31 skateboarding, inline skating, paintball, or freestyle or

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

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

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

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

14 (c) The failure of a governmental entity that provides  
 15 a designated area for skateboarding, inline skating,  
 16 paintball, or freestyle or mountain and off-road bicycling to  
 17 obtain the written consent, in a form acceptable to the  
 18 governmental entity, from the parents or legal guardians of  
 19 any child under 17 years of age before authorizing such child  
 20 to participate in skateboarding, inline skating, paintball, or  
 21 freestyle or mountain and off-road bicycling in such  
 22 designated area, unless that child's participation is in  
 23 violation of posted rules governing the authorized use of the  
 24 designated area, except that a parent or legal guardian must  
 25 demonstrate that written consent to engage in mountain or  
 26 off-road bicycling in a designated area was provided to the  
 27 governmental entity before entering the designated area.

28  
 29 Nothing in this subsection creates a duty of care or basis of  
 30 liability for death, personal injury, or damage to personal  
 31 property. Nothing in this section shall be deemed to be a

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1 waiver of sovereign immunity under any circumstances.

2 (6) Nothing in this section shall limit the liability  
3 of an independent concessionaire, or any person or  
4 organization other than a governmental entity or public  
5 employee, whether or not the person or organization has a  
6 contractual relationship with a governmental entity to use the  
7 public property, for injuries or damages suffered in any case  
8 as a result of the operation of skateboards, inline skates,  
9 paintball equipment, or freestyle or mountain and off-road  
10 bicycles on public property by the concessionaire, person, or  
11 organization.

12 (7)(a) Any person who participates in or assists in  
13 skateboarding, inline skating, paintball, or freestyle or  
14 mountain and off-road bicycling assumes the known and unknown  
15 inherent risks in these activities irrespective of age, and is  
16 legally responsible for all damages, injury, or death to  
17 himself or herself or other persons or property which result  
18 from these activities. Any person who observes skateboarding,  
19 inline skating, paintball, or freestyle or mountain and  
20 off-road bicycling assumes the known and unknown inherent  
21 risks in these activities irrespective of age, and is legally  
22 responsible for all damages, injury, or death to himself or  
23 herself which result from these activities. A governmental  
24 entity that sponsors, allows, or permits skateboarding, inline  
25 skating, paintball, or freestyle or mountain and off-road  
26 bicycling on its property is not required to eliminate, alter,  
27 or control the inherent risks in these activities.

28 (b) While engaged in skateboarding, inline skating,  
29 paintball, or freestyle or mountain and off-road bicycling,  
30 irrespective of where such activities occur, a participant is  
31 responsible for doing all of the following:

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

3           2. Maintaining control of his or her person and the  
4 equipment used.

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

8  
9 Failure to comply with the requirements of this paragraph  
10 shall constitute negligence.

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

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17 (Redesignate subsequent sections.)

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

21 And the title is amended as follows:

22           On page 73, line 9, following the semicolon

23

24 insert:

25           amending s. 316.0085, F.S.; applying provisions  
26 that relate to liability with respect to  
27 skateboarding, inline skating, and other  
28 recreational pursuits to mountain and off-road  
29 bicycling as well; requiring demonstration that  
30 consent by a parent or legal guardian was  
31 provided to a governmental entity in specified

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1           circumstances;

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