

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Criminal Justice Committee

BILL: CS/SB 94

INTRODUCER: Environmental Preservation and Conservation Committee and Senators Baker and Fasano

SUBJECT: State Parks

DATE: April 11, 2007 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Saleh	Kiger	EP	Fav/CS
2.	Erickson	Cannon	CJ	Favorable
3.			GA	
4.				
5.				
6.				

I. Summary:

The bill authorizes the Division of Recreation and Parks (division) to impose penalties for violations of rules authorized under s. 258.007, F.S., which sets forth the division’s powers. With exceptions, violations of rules relating to state parks are noncriminal violations for which a violator may face ejection from state parks and imposition of a fine by the division. The bill provides that it is a second degree misdemeanor for a person to engage in any of an enumerated list of activities in the state parks without first obtaining the permission of the division and to fail to sign a citation, appear in court in response to a citation, or comply with the court’s order. This person must be ejected from the state parks.

The bill provides that fines assessed for state park violations are to be deposited in the State Park Trust Fund. The bill also sets forth the process and procedures for payment of fines and court costs, and authorizes the Department of Environmental Protection (DEP) to establish relevant rules.

The bill provides for a half-price admission fee to state parks for members of the Florida National Guard (FNG) and their families.

The bill provides that, if authorized by the division, golf carts may be operated on a road that is part of a State Park Road System under certain conditions. The bill provides that golf carts and utility vehicles may be operated by state agencies under certain conditions.

The bill creates section 258.008, Florida Statutes, and amends the following sections of the Florida Statutes: 258.007, 258.014, 316.212, 316.2125, and 316.2126.

II. Present Situation:

State Parks Rules

Section 258.007, F.S., authorizes the division to adopt rules to provide for punishment of violations of state park rules as a misdemeanor. Currently, if a citation is written for a violation of minor park infractions, such as tying a tent rope to a tree instead of a stake, this becomes a criminal infraction with a corresponding criminal record.

Florida State Parks

Florida's state park system is one of the largest in the country with 159 parks spanning more than 723,000 acres and 100 miles of sandy white beach. The division, which is part of the DEP, operates and maintains these parks.¹ State park revenues during the 2005-2006 year were approximately \$38.2 million. Annual operating and capital budgets for the 2004-2005 year totaled around \$77 million. In order to cover the annual budgetary shortfalls encountered by the state parks, funds are transferred from the Land Acquisition Trust Fund. Approximately \$33 million has been transferred to cover last year's budget.

In 2005-2006, approximately 18.2 million people visited Florida's state parks. This is an increase from last fiscal year's attendance due to an active storm season in 2004-2005, in which attendance was approximately 17.3 million people.²

Entrance and admission fees to state parks may be charged in a variety of ways. Fees may be charged to individuals or per carload (up to eight people). The amount of the fee charged is based on which park visitors are entering. The average admission fee is about \$2. Individuals may purchase an annual pass for \$43.40 (sales tax included), and families may purchase an annual pass for \$85.60 (sales tax included).³ Section 258.014, F.S., authorizes the division to charge reasonable fees for the use of state parks including fees for rentals or charges for the use of operations or facilities and fees or charges for concessions. Historically, the state park system has allowed groups of military personnel and their families' no-cost admission for scheduled outings.⁴

Golf Carts

Sections 316.212, 316.2125, and 316.2126, F.S., address the operation of golf carts on public roads, including general operational rules, signage, equipment requirements, and prohibitions.

III. Effect of Proposed Changes:

Section 1 amends s. 258.007, F.S., authorizes the Division of Recreation and Parks to impose penalties for violations of rules authorized under this section, which sets forth the division's powers.

¹ Florida Division of Recreation and Parks.

² DEP State Park Quarterly Report (Attendance History).

³ <http://www.floridastateparks.org/information/fees.cfm#Daily>

⁴ Relevant to the bill, the Florida Department of Military Affairs (DMA) indicates that there are currently about 11,400 traditional National Guardsmen and the DMA is authorized to have a maximum of 12,000 guard members. (Information provided to legislative staff from DMA staff.)

Section 2 creates s. 258.008, F.S., to provide that, with exceptions, violations of rules relating to state parks are noncriminal violations for which a violator may face ejection from state parks and imposition of a fine of up to \$1,000 by the division.

The bill provides that it is a second degree misdemeanor for a person to engage in any of the following activities in a state park without first obtaining the permission of the division:

- Cutting, carving, injuring, mutilating, moving, displacing, or breaking off any water bottom formation of coral within the boundaries of a state park.
- Capturing, trapping, injuring, or harassing wild animals within the boundaries of a state park.
- Collecting plant or animal specimens within the boundaries of a state park.
- Leaving the designated public roads with a vehicle within the boundaries of a state park.
- Hunting within the boundaries of a state park.
- Failing to sign a citation given for a non-criminal infraction, failing to appear in court in response to a citation, or failing to comply with the court's order.

The bill also provides that, in addition to penalties imposed under s. 258.008(1), F.S. (noncriminal violations), it is a second degree misdemeanor for a person to fail to sign a citation, appear in court in response to a citation, or comply with the court's order.

As provided in this section, second degree misdemeanors are punishable pursuant to s. 775.082, F.S., or s. 775.083, F.S., and the violator must be ejected from the state parks.

Fines paid under this section must be paid to the DEP and deposited in the State Park Trust Fund. If a person who receives a citation elects to defend himself or herself in court, the county small claims court for the county in which the violation occurred has jurisdiction. Court costs are determined by and paid to the court as ordered by the court. A person who receives a citation but fails to pay the fine, sign and accept a citation, appear in court, or comply with the court's order may not enter any state park property until he or she has paid the fine, complied with the procedure, or complied with the order. The bill authorizes the DEP to establish by rule the procedures for giving a citation, giving a notice of appearance in court, payment of fines, and listing of persons ejected from state parks; the amounts of fines for civil infractions up to \$1,000; definitions; time limits and deadlines; and any other matter necessary to implement this section.

Section 3 amends s. 258.014, F.S. (Fees for use of state parks), to provide that a person who is a FNG member, or the spouse or minor child of such a person, is charged one-half the admission fee to a state park upon presentation of a valid card that identifies the person as being an active FNG member or a spouse or child of such a member.

Section 4 amends s. 316.212, F.S. (Operation of golf carts on certain roadways), to create a new subsection to provide that, notwithstanding any other provision of this section, if authorized by the division, a golf cart may be operated on a road that is part of the State Park Road System if the posted speed limit is 35 miles per hour or less. A violation of this subsection is a noncriminal traffic infraction.

Section 5 amends s. 316.2125(1), F.S. (Operation of golf carts within a retirement community). Currently, this subsection references reasonable and permitted operation of golf carts in a self-contained retirement community as provided in s. 316.212(4),(5), and (6), F.S. These subsections provide, respectively, for the times when a golf cart may be operated on public roads, how the golf cart is to be equipped, and the minimum age of the golf cart operator (14). The bill deletes reference to these subsections and references s. 316.212, F.S., in its entirety, so that all the requirements and restrictions in this section applicable to operation of golf carts on a public road are applicable to reasonable and permitted operation of golf carts in a self-contained retirement community.

Section 6 amends s. 316.2125, F.S. (Use of golf carts and utility vehicles by municipalities). Currently, this section is limited to operation of golf carts and utility vehicles by municipalities. The bill strikes reference to “municipalities” in the catch line of the statute and adds the word “state” to several provisions currently applicable only to municipalities or municipal employees. The effect of these amendments is:

- In addition to the powers granted by ss. 316.212 and 316.2125, F.S., state agencies are authorized to operate golf carts and utility vehicles, as defined in s. 320.01, F.S., subject to specified conditions in s. 316.2125, F.S.
- Operation of the golf carts and utility vehicles is for state purposes.
- In addition to required safety equipment, the golf carts and utility vehicles must be equipped with sufficient lighting and turn signal equipment, and may be operated only on state roads that have a posted speed limit of 30 miles per hour or less.
- A state municipal employee operating a golf cart or utility vehicle pursuant to this section must possess a valid driver’s license as required by s. 322.03, F.S.

The bill retains but moves current language that restricts operation of a golf cart or utility vehicle by a municipal employee to operation on a state, county, or municipal road located within the corporate limits of the municipality. State agency operators are not so limited.

The bill makes conforming reference changes in light of subsection numbering changes resulting from the inclusion of a new subsection in s. s. 316.212, F.S., by Section 4 of the bill.

Currently, s. 316.2126(2), F.S., provides that, in addition to the safety equipment required in s. 316.212(5), F.S., and any more restrictive safety equipment required by the local governmental entity pursuant to s. 316.212(7), F.S., such golf carts and utility vehicles must be equipped with sufficient lighting and turn signal equipment. The bill deletes reference to s. 316.212(5), F.S., and any more restrictive safety equipment required by the local governmental entity pursuant to s. 316.212(7), F.S., and substitute reference to s. 316.2126(1), F.S., which, as a result of the bill, provides that golf carts and utility vehicles must comply with the operational and safety requirements in ss. 316.212 and 316.2125, F.S., and with any more restrictive ordinances enacted by the local governmental entity pursuant to s. 316.212(8), F.S., and shall be operated only by state or municipal employees for state or municipal purposes, including but not limited to, police patrol, traffic enforcement, and inspection of public facilities.

Section 7 provides that the act takes effect July 1, 2007.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article III, Section 6 of the Florida Constitution provides that every law shall embrace but one subject and matter properly connected therewith,⁵ and the subject shall be briefly expressed in the title. The substantive changes to s. 316.2126, F.S. (Section 6 of the bill), appear to have a tenuous relation to the subject of the bill, which is “state parks.” These changes relate to the inclusion of “state agencies” in s. 316.2126, F.S., so that the provisions of this section apply to use of golf carts and utility vehicles by state agencies. Since the division is part of DEP, which is a state agency, s. 316.2126, F.S., as amended by the bill, appears to apply to DEP, and by extension, to the division.

Changes to s. 316.2125, F.S. (Section 5 of the bill), and s. 316.2126, F.S. (Section 6 of the bill), to correct referencing to subsections of s. 312.212, F.S., do not appear to be substantive changes but rather changes to conform referencing as a result of the inclusion of a new subsection in s. 316.212, F.S. (Section 4 of the bill). This new subsection is clearly pertinent to the subject of the bill.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

A family of an active FNG member could save \$42.80 (sales tax included) per year if they normally purchased an annual pass, or they could save approximately \$2.50 per visit, depending on the park, if they were not on an annual plan.

⁵ “A connection between a provision and the subject is proper (1) if the connection is natural or logical, or (2) if there is a reasonable explanation for how the provision is (a) necessary to the subject or (b) tends to make effective or promote the objects and purposes of legislation included in the subject.” *Franklin v. State*, 887 So.2d 1063, 1078 (Fla.2004).

An active FNG member could save \$21.70 (sales tax included) per year if the member normally purchased an annual pass, or the member could save approximately \$2.50 per visit, depending on the park, if the member was not on an annual plan

C. Government Sector Impact:

The DEP estimates a revenue impact of \$480,000. This impact assumed that the current FNG strength was 12,000 members and that each member would be equivalent to the loss of the \$40 annual pass (tax not included). Assuming the number of guard members equals 11,400 members as stated by the DMA, the revenue impact would be \$456,000 based on the DEP's calculation method.

Further review by committee staff has estimated a different fiscal impact that the bill may have on the DEP. According to the Legislature's Office of Economic and Demographic Research, the population of Florida's residents totaled approximately 18 million people in 2006. Therefore, it can be calculated that all current FNG represent approximately 0.06 percent of the 2006 total Florida population.

Results of a study of state park visitors conducted by the University of Florida's recreation department in 2000 showed that approximately 60 percent of all visitors to Florida state parks are residents. Based on the 2004-2005 total number of park visitors, Florida residents accounted for approximately 11 million of the 18.2 million visitors ($18,200,000 \times 0.60 = 10,920,000$). Using 0.06 percent as a percentage of representation for FNG members, as shown above, it can be calculated that of the 11 million in-state Florida residents who visited Florida State parks last year, approximately 6,600 were FNG members ($11,000,000 \times 0.00060 = 6,600$). Based on this assumption, and also on the assumption that every one of the 6,600 FNG bought an annual family pass for \$42.80, the total fiscal impact would be approximately \$282,500 ($6,600 \times \$85.60 / 2 = \$282,500$).

Because there are different types of admission fees to state parks, including different daily entrance fees which vary between state parks and the sale of individual annual passes, the actual fiscal impacts are difficult to estimate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
