

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard individual liberty: The bill decriminalizes violations of the Division of Recreation and Parks' rules except for specifically identified acts.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

From its beginning in 1935, Florida's state park system has expanded to one of the largest and most heavily used systems in the country. Containing over 600,000 acres in more than 157 separate units, with an annual operating budget in excess of \$70 million, the state park system today represents a major commitment by the State of Florida to the preservation of its scenic resources and provision of outstanding recreation opportunities for its people.¹

Section 258.004, F.S., directs the Division of Recreation and Parks (division), Department of Environmental Protection (DEP) to preserve, manage, regulate, and protect all parks and recreational areas held by the state. To facilitate this charge, s. 258.007(2), F.S., authorizes the division to adopt rules for administering the park system. This section further stipulates that any violation of the rules adopted by the division shall be a misdemeanor – the statute does not specify the misdemeanor degree nor does it address punishment other than to say: “punishable accordingly”.

Effect of Proposed Changes

This bill decriminalizes violations of the division's rules except for certain identified violations. Penalties are established for noncriminal infractions that include ejection from all properties managed by the division and a fine of up to \$1,000.00. Unless a person has been granted specific permission by the division to engage in the activity, any of the following activities are violations identified by the bill as misdemeanors of the second degree, punishable as provided in ss. 775.082 and 775.083, F.S.:

- Cutting, carving, injuring, mutilating, moving, displacing, or breaking off any water bottom formation or growth 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 timely pay a civil penalty imposed under the statute.

Any person committing one or more of these violations would be ejected from all properties managed by the division.

¹ DEP, 2007. <http://www.dep.state.fl.us/mainpage/programs/parks.htm>.

This bill does not address the duration of “ejection” – only an immediate removal from division property or a permanent ban from division property – nor does the bill specify a trust fund for deposit of fines collected.

C. SECTION DIRECTORY:

Section 1: Amends s. 258.007, F.S., establishing certain violations of division rules as noncriminal infractions and establishing penalties, establishing specified violations of division rules as a misdemeanor of the second degree.

Section 2: Creates an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Fines are established for violations of certain rules of the division.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Fines are established for violations of certain rules of the division.

D. FISCAL COMMENTS:

No provision is made for disposition of fines collected.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds, nor does it appear to reduce the authority that cities or counties have to raise revenues in the aggregate, nor does it appear to reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No additional rulemaking authority is granted for implementing the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

The amendment removes everything from the bill after the enacting clause.

The strike-all decriminalizes violations of the division's rules except for certain identified violations. Penalties are established for noncriminal infractions that include ejection from all properties managed by the division and a fine of up to \$1,000.00. Unless a person has been granted specific permission by the division to engage in the activity, any of the following activities are violations identified by the strike-all as misdemeanors of the second degree, punishable as provided in ss. 775.082 and 775.083, F.S.:

- Cutting, carving, injuring, mutilating, moving, displacing, or breaking off any water bottom formation or growth 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, failing to appear in court in response to a citation, or failing to comply with the court's order.

Any person committing one or more of these violations would be ejected from all properties managed by the division.

Section 403.031, F.S., is amended to define "regulated air pollutant" as any pollutant regulated under the federal Clean Air Act. Note that Florida's air permitting is an approved program by the USEPA, that is, the state's requirements are at least as stringent as the federal requirements and air emissions permits are developed and issued by the state's permitting authority.

The strike-all repeals ss. 325.221, 325.222, and 325.223, F.S., as obsolete or redundant. These sections pertain to motor vehicle air conditioners, legislative findings and intent, definitions, training and certification requirements for motor vehicle air conditioner mechanics, and sale of refrigerants. These sections are either related to the state's defunct motor vehicle inspection program or, pursuant to the change in the definition of regulated air pollutant, duplicative of requirements set forth in s. 609 of the federal Clean Air Act.

The strike-all repeals s. 403.08725, F.S., as redundant. This section pertains to citrus juice processing facilities and air pollution regulations, and establishes procedures to ensure compliance with those

regulations. Pursuant to the change in the definition of regulated air pollutant, this section is duplicative of Title I Part C and Title V of the federal Clean Air Act.

Section 403.0872(1)(d), F.S., is amended to include 42 U.S.C. s. 7412, thus providing exemption from the classification as a major source of air pollution solely because they emit hazardous air pollutants, that is, in compliance with an USEPA mandate for approved programs, these facilities are not required to obtain a federal Title V permit. However, these facilities are still subject to permitting pursuant to the change in the definition of regulated air pollutant.

Section 316.212(4), F.S., is created to allow operation of golf carts on certain roads within state parks. Section 316.2126, F.S., is amended to allow the state to operate golf carts subject to same authority and restriction as municipalities.

Section 258.014(3), F.S., is created to authorize the Division of Recreation and Parks, upon presentation of a valid identification card, to charge half price fees to active members of the Florida National Guard for use of properties managed by the division.

The strike-all creates an effective date of July 1, 2007.