

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 981

State Park Rule Violations

SPONSOR(S): Culp

TIED BILLS:

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Conservation & State Lands</u>	<u>6 Y, 0 N</u>	<u>Palmer</u>	<u>Zeiler</u>
2) <u>Environment & Natural Resources Council</u>	<u>14 Y, 0 N, As CS</u>	<u>Palmer</u>	<u>Hamby</u>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill decriminalizes violations of the Division of Recreation and Parks' rules except for those specifically identified by statute. Penalties are established for noncriminal infractions and specific violations are identified which would be misdemeanors of the second degree. The bill also authorizes the Division of Recreation and Parks to charge half price fees to active members of the Florida National Guard, allows operation of golf carts on certain roads within state parks, and allows the state to operate golf carts subject to the same authority and restrictions as municipalities. The bill creates an effective date of July 1, 2007.

Fines are established for violations of certain rules, otherwise the bill does not appear to have a fiscal impact on state or local governments.

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: Section 258.014(3), F.S., is created to authorize half price fees to active members of the Florida National Guard for use of State Parks.

Section 3: Section 316.212(4), F.S., is created to allow operation of golf carts on certain roads within state parks.

Section 4: Section 316.2125, F.S., is amended to correct cross-references.

Section 5: Section 316.2126, F.S., is amended to allow the state to operate golf carts subject to the same authority and restrictions as municipalities.

Section 6: 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. Any fines collected pursuant to this bill shall be deposited in the State Parks Trust Fund.

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:

None.

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

On March 28, 2007, the Environment and Natural Resources Council considered and passed HB 981 with council substitute.

The council substitute amends s. 258.007, F.S., to decriminalize violations of the Division of Recreation and Park's (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 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 coral 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. Any fines collected pursuant to this section shall be deposited in the State Parks Trust Fund and shall be used for the administration, maintenance, preservation and improvement of state parks.

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.

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 the same authority and restrictions as municipalities.

The council substitute creates an effective date of July 1, 2007.