

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 700,000 acres in 161 separate units, the state park system today represents a major commitment by the State of Florida to the preservation of its scenic resources. Florida state parks provide outstanding recreation opportunities for its citizens and visitors.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 administrating 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”.

Chapter 316, F.S., provides the state's intent for uniform traffic control. Although this statute addresses the limited operation of golf carts on certain public roads, it does not address the operation of golf carts within state park boundaries or the operation, by state park personnel or state park volunteers, of golf carts or utility vehicles on public roads within municipal corporate limits.

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 \$500.00. 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.

¹ DEP, 2008. <http://www.dep.state.fl.us/mainpage/programs/parks.htm>

The bill further provides that the Division of Recreation and Parks may authorize the use of golf carts on park roads when the posted speed limit is 35 mph or less and authorizes the Division of Recreation and Parks' personnel and state park volunteers to operate golf carts and utility vehicles on public roads within municipal corporate limits or state park boundaries for public purposes.

C. SECTION DIRECTORY:

Section 1: Amends s. 258.007(2), F.S., authorizing the Division of Recreation and Parks to impose penalties and deleting a criminal penalty.

Section 2: Creates s. 258.008, F.S., providing penalties for non-criminal violations of Division of Recreation and Parks' rules, setting a maximum fine for violation of those rules, establishing certain specified violations of division rules as a misdemeanor of the second degree, providing that fines collected are to be deposited into the State Park Trust Fund.

Section 3: Amends s. 316.212, F.S., authorizing the operation of a golf cart within a state park under certain circumstances and conforming cross-references.

Section 4: Amends s. 316.2125(1), F.S., providing conforming cross-references.

Section 5: Amends s. 316.2126, F.S., authorizing the Division of Recreation and Parks to operate golf carts and utility vehicles on public roads within municipal corporate limits or state park boundaries for public purposes and conforming cross-references.

Section 6: Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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:

This bill does not address the duration of "ejection" – whether only an immediate removal from division property or a permanent ban from division property.

D. STATEMENT OF THE SPONSOR

This bill will allow park rangers to do their jobs more efficiently and will allow them to have more control over individual situations when dealing with visitors to our park facilities.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES