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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/9/2008	.	
	.	
	.	

1 The Committee on Environmental Preservation and Conservation
 2 (Justice) recommended the following **amendment**:

Senate Amendment (with title amendment)

5 Delete everything after the enacting clause
6 and insert:

8 Section 1. Part V of chapter 161, Florida Statutes,
9 consisting of sections 161.80, 161.81, 161.82, and 161.83, is
10 created to read:

11 PART V

12 PUBLIC BEACH ACCESS

13 161.80 Definitions.--As used in this part, the term:

14 (1) "Beach access" means the public's right to laterally
15 traverse and make recreational use of the sandy beaches of this
16 state where such access exists on or after July 1, 1987, or the
17 public has established an accessway through private lands to

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18 lands seaward of the mean high tide or water line by
19 prescription, prescriptive easement, or any other legal means,
20 and the public's right of ingress and egress to public beaches
21 and the waters of the Gulf of Mexico, the Atlantic Ocean, or the
22 Straits of Florida.

23 (2) "Public beach" means any sovereign beach, any
24 recreational beach owned or operated by the state or a local
25 government, or any sandy beach area where the public has
26 established or acquired a right of use by prescription,
27 dedication, custom, or any other legal means.

28 (3) "Sovereign beach" means that portion of a sandy beach
29 lying seaward of the line of mean high water or a recorded
30 erosion control line.

31 161.81 Declaration of policy and effect.--

32 (1) It is the policy of this state that the public,
33 individually and collectively, shall have the free and
34 unrestricted right to enter and use public beaches.

35 (2) This part does not affect in any way the title held to
36 land in this state which is adjacent to any beach on the Gulf of
37 Mexico, the Atlantic Ocean, or the Straits of Florida, and does
38 not reduce or limit in any way the rights of the public in public
39 beaches which have been defined in law or custom.

40 (3) Any sandy beach below the mean high water line or a
41 recorded erosion control line is declared public and a private
42 entity, absent a board of trustees deed or authorization, may not
43 restrict access along the shoreline across such beaches.

44 161.82 Use of public beaches.--

45 (1) (a) A person may not:

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46 1. Obstruct or cause obstruction of beach access by
47 fencing, barricading, or causing any other obstruction, unless
48 such obstruction is otherwise authorized by law.

49 2. Display or cause to be displayed on any public beach any
50 sign, marker, or warning or communicate in any other manner that
51 a public beach is private property.

52 (b) A person who violates this subsection commits a
53 misdemeanor of the first degree, punishable as provided in s.
54 775.082 or s. 775.083.

55 (2) A governmental entity may not place or cause to be
56 placed any fencing, barricade, or any other obstruction upon a
57 public beach, unless such obstruction is a response to public
58 safety or an emergency or is otherwise authorized by law. This
59 subsection does not prevent any agency, department, institution,
60 subdivision, or instrumentality of the state or of the Federal
61 Government from erecting or maintaining any groin, seawall,
62 barrier, pass, channel, jetty, or other structure as an aid to
63 navigation, as protection of the shore, or for fishing, safety,
64 or other lawful purpose.

65 161.83 Recording permission to access beaches; limitation
66 of liability.--

67 (1) As used in this section, the term "recreational use"
68 includes, but is not limited to, walking; hiking; fishing;
69 swimming; surfing; sunbathing; nature study; any other
70 traditional beach activities; visiting historical,
71 archaeological, scenic, or scientific sites; accessing a public
72 beach; and providing noncommercial parking areas in proximity to
73 beach access points.

74 (2) The holder of record title to land within 1,500 feet of
75 the Gulf of Mexico, the Atlantic Ocean, or the Straits of Florida

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76 may record in any county in which any part of the land is
77 situated a description of the land and a notice reading
78 substantially as follows: "The right of the public or any person
79 to make recreational use of the above described land or any
80 portion thereof, other than any use expressly allowed by a
81 written or recorded map, agreement, deed, or dedication, is by
82 permission of owner pursuant to section 161.83, Florida
83 Statutes." The holder of record title may revoke any such
84 recorded notice by recording a notice of revocation in each
85 county wherein the notice is recorded. The recording of a notice
86 under this subsection does not affect any right of the public
87 which was vested at the time of recording through prescription,
88 dedication, custom, or other legal means.

89 (3) During any period when notice concerning a parcel of
90 land is recorded and not revoked:

91 (a) If the dedication of all or a portion of the parcel to
92 public use or the public's prescriptive or customary right in all
93 or a portion of the parcel is at issue in a legal proceeding, the
94 recorded notice is conclusive evidence that the use of the parcel
95 by the public or by any user for any purpose, other than a use
96 expressly allowed by a written or recorded map, agreement, deed,
97 or dedication, is permissive and with the consent of the holder
98 of record title to the parcel.

99 (b) The holder of record title to the parcel may not
100 prevent a public use of the parcel which is appropriate to the
101 notice by physical obstruction, notice, or otherwise.

102 (c) The holder of record title to the parcel does not owe a
103 duty of care to keep the parcel safe for entry or use by the
104 public or to give warning to persons entering or going of any
105 hazardous conditions, structures, or activities thereon, and such



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106 titleholder does not, by providing public recreational use of the
107 parcel:

108 1. Extend any assurance that the parcel is safe for any
109 purpose;

110 2. Incur any duty of care to any person who goes on the
111 parcel; or

112 3. Become liable or responsible for any injury to persons
113 or property caused by the act or omission of a person who goes on
114 the parcel.

115 Section 2. This act shall take effect July 1, 2008.

116
117 ===== T I T L E A M E N D M E N T =====

118 And the title is amended as follows:

119 Delete everything before the enacting clause
120 and insert:

121 A bill to be entitled
122 An act relating to public access to beaches; creating part
123 V of ch. 161, F.S.; providing definitions; declaring the
124 policy and effect; declaring sandy beaches in this state
125 public; prohibiting private entities from restricting
126 access; prohibiting obstruction of beach access under
127 certain conditions; prohibiting the use of signs declaring
128 that a public beach is private property; providing that a
129 violation of such prohibition is a first-degree
130 misdemeanor; providing a penalty; prohibiting a
131 governmental entity from placing an obstruction upon a
132 public beach under certain conditions; defining the term
133 "recreational use"; authorizing owners of land within a
134 specified distance of certain coastal waters to record or
135 revoke a notice concerning the granting of permission for



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136 | the public's recreational use of the land; providing
137 | limitations on the duty or liability of an owner while
138 | such a notice is recorded; prohibiting an owner from
139 | preventing certain public uses of the land while such a
140 | notice is recorded; providing an effective date.