

By Senator Justice

16-03745A-08

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1 A bill to be entitled

2 An act relating to public access to beaches; creating  
3 part V of ch. 161, F.S.; providing definitions; declaring  
4 the policy and effect; prohibiting a local government  
5 from adopting an ordinance, resolution, or development  
6 order that has the effect of excluding certain  
7 individuals from a public beach; prohibiting obstruction  
8 of beach access under certain conditions; requiring that  
9 the display of certain signs meet criteria concerning  
10 beach access; providing that a violation of such  
11 prohibition is a first-degree misdemeanor; providing a  
12 penalty; prohibiting a governmental entity from placing  
13 an obstruction upon a public beach under certain  
14 conditions; defining the term "recreational use";  
15 authorizing owners of land within a specified distance of  
16 specified coastal waters to record or revoke a notice  
17 concerning the granting of permission for the public's  
18 recreational use of the land; providing limitations on  
19 the duty or liability of an owner while such a notice is  
20 recorded; prohibiting an owner from preventing certain  
21 public uses of the land while such a notice is recorded;  
22 providing an effective date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
26 Section 1. Part V of chapter 161, Florida Statutes,  
27 consisting of sections 161.80, 161.81, 161.82, and 161.83, is  
28 created to read:

29 PART V

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PUBLIC BEACH ACCESS

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

(1) "Beach access" means the public's right to laterally traverse and make recreational use of the sandy beaches of this state where such access exists on or after July 1, 1987, or the public has established an accessway through private lands to lands seaward of the mean high tide or water line by prescription, prescriptive easement, or any other legal means, and the public's right of ingress and egress to public beaches and the waters of the Gulf of Mexico, the Atlantic Ocean, or the Straits of Florida.

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

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

161.81 Declaration of policy and effect.--

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

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

161.82 Use of public beaches.--

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59       (1) A local government may not adopt an ordinance,  
60 resolution, or development order that has the effect of excluding  
61 nonresidents or a particular class of user from a public beach.

62       (2) (a) A person may not:

63       1. Obstruct or cause obstruction of beach access by  
64 fencing, barricading, or causing any other obstruction, unless  
65 such obstruction is otherwise authorized by law.

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

69       (b) A person who violates this subsection commits a  
70 misdemeanor of the first degree, punishable as provided in s.  
71 775.082 or s. 775.083.

72       (3) A governmental entity may not place or cause to be  
73 placed any fencing, barricade, or any other obstruction upon a  
74 public beach, unless such obstruction is a response to an  
75 emergency or is otherwise authorized by law. This subsection does  
76 not prevent any agency, department, institution, subdivision, or  
77 instrumentality of the state or of the Federal Government from  
78 erecting or maintaining any groin, seawall, barrier, pass,  
79 channel, jetty, or other structure as an aid to navigation, as  
80 protection of the shore, or for fishing, safety, or other lawful  
81 purpose.

82       161.83 Recording permission to access beaches; limitation  
83 of liability.--

84       (1) As used in this section, the term "recreational use"  
85 includes, but is not limited to, walking, hiking, fishing,  
86 swimming, surfing, sunbathing, nature study, or other traditional  
87 beach activities; visiting historical, archaeological, scenic, or

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88 scientific sites; accessing a public beach; and providing  
89 noncommercial parking areas in proximity to beach access points.

90 (2) The holder of record title to land within 1,500 feet of  
91 the Gulf of Mexico, the Atlantic Ocean, or the Straits of Florida  
92 may record in any county in which any part of the land is  
93 situated a description of the land and a notice reading  
94 substantially as follows: "The right of the public or any person  
95 to make recreational use of the above described land or any  
96 portion thereof, other than any use expressly allowed by a  
97 written or recorded map, agreement, deed, or dedication, is by  
98 permission of owner pursuant to section 161.86, Florida  
99 Statutes." The holder of record title may revoke any such  
100 recorded notice by recording a notice of revocation in each  
101 county wherein the notice is recorded. The recording of a notice  
102 under this subsection does not affect any right of the public  
103 which was vested at the time of recording through prescription,  
104 dedication, custom, or other legal means.

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

107 (a) If the dedication of all or a portion of the parcel to  
108 public use or the public's prescriptive or customary right in all  
109 or a portion of the parcel is at issue in a legal proceeding, the  
110 recorded notice is conclusive evidence that the use of the parcel  
111 by the public or by any user for any purpose, other than a use  
112 expressly allowed by a written or recorded map, agreement, deed,  
113 or dedication, is permissive and with the consent of the holder  
114 of record title to the parcel.

115 (b) The holder of record title to the parcel may not  
116 prevent a public use of the parcel which is appropriate to the

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117 notice by physical obstruction, notice, or otherwise.

118 (c) The holder of record title to the parcel owes no duty  
119 of care to keep the parcel safe for entry or use by the public or  
120 to give warning to persons entering or going of any hazardous  
121 conditions, structures, or activities thereon, and such  
122 titleholder does not, by providing public recreational use of the  
123 parcel:

124 1. Extend any assurance that the parcel is safe for any  
125 purpose;

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

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

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