

By the Committee on Environmental Preservation and Conservation;
and Senator Justice

592-07212-08

20082622c1

1 A bill to be entitled

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

21
22 Be It Enacted by the Legislature of the State of Florida:

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

27 PART V

28 PUBLIC BEACH ACCESS

29 161.80 Definitions.--As used in this part, the term:

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

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

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

47 161.81 Declaration of policy and effect.--

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

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

56 (3) Any sandy beach below the mean high water line or a
57 recorded erosion control line is declared public and a private
58 entity, absent a board of trustees deed or authorization, may not

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59 restrict access along the shoreline across such beaches.

60 161.82 Use of public beaches.--

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

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

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

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

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

81 161.83 Recording permission to access beaches; limitation
82 of liability.--

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

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88 beach; and providing noncommercial parking areas in proximity to
89 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 161.83, 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 does not owe a
119 duty of care to keep the parcel safe for entry or use by the
120 public or to give warning to persons entering or going of any
121 hazardous 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.