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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/21/2009	.	
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The Committee on Judiciary (Constantine) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. This act may be cited as The Airline Safety and Wildlife Protection Act of Florida.

Section 2. Section 379.2293, Florida Statutes, is created to read:

379.2293 Airport activities within the scope of a federally approved wildlife hazard management plan or a federal or state permit or other authorization for depredation or harassment.-



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12           (1) The Legislature finds and declares that the ability of  
13 airports to manage wildlife hazards in a manner consistent with  
14 state and federal law is necessary to prevent jeopardy to human  
15 life or aircraft safety. It is the intent of the Legislature  
16 that actions taken by airports within the scope of  
17 authorizations to manage wildlife for such purposes not be  
18 subject to penalties, restrictions, liabilities, or sanctions  
19 and that such authorizations not be superseded by actions of  
20 other state or local agencies.

21           (2) An airport authority or other entity owning or  
22 operating an airport, as defined in s. 330.27(2), is not subject  
23 to any administrative or civil penalty, restriction, or other  
24 sanction with respect to any authorized action taken in a non-  
25 negligent manner for the purpose of protecting human life or  
26 aircraft safety from wildlife hazards.

27           (3) (a) For purposes of this section, an "authorized action  
28 taken for the purpose of protecting human life or aircraft  
29 safety from wildlife hazards" is an action authorized by or  
30 within the scope of any of the following:

- 31           1. The airport's wildlife hazard management plan, as  
32 approved by the Federal Aviation Administration.
- 33           2. A depredation permit issued by the United States Fish  
34 and Wildlife Service.
- 35           3. A standing order of the United States Fish and  
36 Wildlife Service.
- 37           4. Rule 68A-9.010(4) or rule 68A-27.002, Florida  
38 Administrative Code, or a permit authorizing the harassment  
39 of wildlife issued by the Fish and Wildlife Conservation  
40 Commission.



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41           (b) The term "authorized action taken for the purpose of  
42 protecting human life or aircraft safety from wildlife hazards"  
43 does not include:

44           1. Dredging or filling of wetlands or other surface waters  
45 or alteration of a stormwater management system, unless  
46 authorized by and performed in compliance with, a permit issued  
47 under part IV of chapter 373 or an emergency order under chapter  
48 373. However, such a permit or emergency order is not required  
49 prior to the activity when the airport authority or other entity  
50 described in subsection (2) determines that an emergency  
51 condition exists which requires immediate action to protect  
52 human life and the airport authority or other entity described  
53 in subsection (2) obtains the appropriate permit under part IV  
54 of chapter 373 within one year after conducting the emergency  
55 action.

56           2. Trespass on lands or unauthorized interference with an  
57 easement not owned or leased by the airport authority or other  
58 entity referred to in subsection (2).

59           (4) If an authorized action taken for the purpose of  
60 protecting human life or aircraft safety from wildlife hazards  
61 as defined in subsection (3) conflicts or appears to conflict  
62 with a development permit, land development regulation, local  
63 comprehensive plan, or other environmental or land-use law,  
64 rule, restriction, or requirement, the authorization described  
65 in subsection (3) shall prevail.

66           (5) In addition to applying to the airport authority or  
67 other owner or operator of the airport, the immunities conferred  
68 by this section also apply to any officer, employee, contractor,  
69 or employee of a contractor of the airport authority or other



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70 owner or operator of the airport, or any member of the airport's  
71 governing body, to the extent that the actions of the officer,  
72 employee, contractor, contractor s employee, or member are  
73 authorized by or within the scope of one or more of the legal  
74 authorities described in subsection (3).

75 (6) Nothing in this section is intended to provide immunity  
76 from liability with respect to intentional or negligent torts,  
77 and nothing in this section is intended to affect the waiver of  
78 sovereign immunity under s. 768.28.

79 Section 3. This act shall take effect upon becoming a law.  
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81

82 ===== T I T L E A M E N D M E N T =====

83 And the title is amended as follows:

84 Delete everything before the enacting clause  
85 and insert:

86 A bill to be entitled

87 An act relating to aircraft safety; providing a short title;  
88 creating s. 379.2293, F.S.; providing legislative findings and  
89 intent; exempting airport authorities and other entities from  
90 penalties, restrictions, or sanctions with respect to authorized  
91 actions taken to protect human life or aircraft from wildlife  
92 hazards; defining the term authorized action taken for the  
93 purpose of protecting human life or aircraft safety from  
94 wildlife hazards ; providing that federal or state  
95 authorizations for such actions prevail over certain other  
96 regulations, permits, comprehensive plans, and laws; providing  
97 immunity from penalties with respect to authorized action for  
98 certain individuals; providing exceptions; providing an



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99 effective date.