



201090

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2009	.	
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The Committee on Environmental Preservation and Conservation  
(Sobel) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

PART V

PUBLIC BEACH ACCESS

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



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12           (1) "Beach access" means the public's right to laterally  
13 traverse the sandy beaches of this state where such access  
14 exists on or after July 1, 1987, or the public has established  
15 an accessway through private lands to lands seaward of the mean  
16 high tide or water line by prescription, prescriptive easement,  
17 or any other legal means. Development or construction shall not  
18 interfere with the right of public access unless a comparable  
19 alternative accessway is provided.

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

25           (3) "Sovereign beach" means that portion of a sandy beach  
26 titled to the Board of Trustees of the Internal Improvement  
27 Trust Fund lying seaward of the line of mean high water or a  
28 recorded erosion control line.

29           161.81 Declaration of policy and effect.-

30           (1) Under the Environmental Protection Act of 1971, a  
31 public beach is a natural resource, and it is the policy of this  
32 state that the public, individually and collectively, have the  
33 right to enter and use this resource.

34           (2) Any sandy beach below the mean high water line or a  
35 recorded erosion control line is declared public, and a private  
36 entity, absent a board of trustees deed or authorization, may  
37 not restrict access along the shoreline across such beaches.

38           (3) This part does not affect any beach management efforts  
39 to fund and manage the shoreline under part I of this chapter.

40           161.82 Unlawful barriers to use of public beaches.-



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41           (1) (a) A person may not:  
42           1. Obstruct or cause obstruction of beach access by  
43 fencing, barricading, or causing any other obstruction, unless  
44 such obstruction is otherwise authorized by law.  
45           2. Display or cause to be displayed on any public beach any  
46 sign, marker, or warning or communicate in any other manner that  
47 a public beach is private property.  
48           (b) A person who violates this subsection commits a  
49 misdemeanor of the first degree, punishable as provided in s.  
50 775.082 or s. 775.083.  
51           (2) A governmental entity may not:  
52           (a) Place or cause to be placed any fencing, barricade, or  
53 any other obstruction upon a public beach, unless such  
54 obstruction is:  
55           1. Necessary for the public health, safety, and welfare;  
56           2. Erected for no more than 30 calendar days;  
57           3. Necessary to protect wildlife, habitat, or other  
58 environmental resources; or  
59           4. Otherwise authorized by law.  
60           (b) Limit the public's access to a public beach, unless  
61 alternative access that is of substantially similar quality and  
62 convenience to the public is provided.  
63           (3) This subsection does not prevent any agency,  
64 department, institution, subdivision, or instrumentality of the  
65 state or of the Federal Government from erecting or maintaining  
66 any groin, seawall, barrier, pass, channel, jetty, or other  
67 structure as an aid to navigation, as protection of the shore,  
68 or for fishing, safety, or other lawful purpose.  
69           161.83 Prima facie evidence.—In a suit brought or defended



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70 under this part or whose determination is affected by this part,  
71 proof of record title to a sandy beach that is landward of a  
72 sovereign beach is not prima facie evidence that the titleholder  
73 has a right to exclude the public from accessing and using the  
74 sandy beach or any associated accessway.

75 Section 2. This act shall take effect July 1, 2009.

76  
77 ===== T I T L E A M E N D M E N T =====

78 And the title is amended as follows:

79 Delete everything before the enacting clause  
80 and insert:

81 A bill to entitled  
82 An act relating to public access to beaches; creating  
83 part V of ch. 161, F.S.; providing definitions;  
84 providing a declaration of public policy and effect;  
85 prohibiting persons from restricting access;  
86 prohibiting obstruction of beach access except as  
87 otherwise authorized by law; prohibiting the use of  
88 signs declaring that a public beach is private  
89 property; providing that a violation of such  
90 prohibition is a first-degree misdemeanor; providing a  
91 penalty; prohibiting a governmental entity from  
92 placing an obstruction upon or limiting public access  
93 to a public beach except under certain conditions;  
94 providing for the use of prima facie evidence in suits  
95 to exclude the public from accessing and using a sandy  
96 beach; providing an effective date.