

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; providing a
 4 declaration of public policy and effect; prohibiting
 5 persons from restricting access; prohibiting obstruction
 6 of beach access except as otherwise authorized by law;
 7 prohibiting the use of signs declaring that a public beach
 8 is private property; providing that a violation of such
 9 prohibition is a first-degree misdemeanor; providing a
 10 penalty; prohibiting a governmental entity from placing an
 11 obstruction upon or limiting public access to a public
 12 beach except under certain conditions; providing for the
 13 use of prima facie evidence in suits to exclude the public
 14 from accessing and using a sandy beach; providing an
 15 effective date.

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 17 Be It Enacted by the Legislature of the State of Florida:

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

22 PART V

23 PUBLIC BEACH ACCESS

24 161.80 Definitions.--As used in this part, the term:

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

29 lands seaward of the mean high tide or water line by
 30 prescription, prescriptive easement, or any other legal means.
 31 Development or construction shall not interfere with such right
 32 of public access unless a comparable alternative accessway is
 33 provided.

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

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

42 161.81 Declaration of policy and effect.--

43 (1) Under the Environmental Protection Act of 1971, a
 44 public beach is a natural resource, and it is the policy of this
 45 state that the public, individually and collectively, have the
 46 right to enter and use this resource.

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

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

53 161.82 Unlawful barriers to use of public beaches.--

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

55 1. Obstruct or cause obstruction of beach access by
 56 fencing, barricading, or causing any other obstruction, unless

57 such obstruction is otherwise authorized by law.

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

61 (b) A person who violates this subsection commits a
 62 misdemeanor of the first degree, punishable as provided in s.
 63 775.082 or s. 775.083.

64 (2) A governmental entity may not:

65 (a) Place or cause to be placed any fencing, barricade, or
 66 any other obstruction upon a public beach, unless such
 67 obstruction is:

68 1. Necessary for the public health, safety, and welfare;

69 2. Erected for no more than 30 calendar days;

70 3. Necessary to protect wildlife, habitat, or other
 71 environmental resources; or

72 4. Otherwise authorized by law.

73 (b) Limit the public's access to a public beach, unless
 74 alternative access that is of substantially similar quality and
 75 convenience to the public is provided.

76 (3) This subsection does not prevent any agency,
 77 department, institution, subdivision, or instrumentality of the
 78 state or of the Federal Government from erecting or maintaining
 79 any groin, seawall, barrier, pass, channel, jetty, or other
 80 structure as an aid to navigation, as protection of the shore,
 81 or for fishing, safety, or other lawful purpose.

82 161.83 Prima facie evidence.--In a suit brought or
 83 defended under this part or whose determination is affected by
 84 this part, proof of record title to a sandy beach that is

CS/HB 527

2009

85 | landward of a sovereign beach is not prima facie evidence that
86 | the titleholder has a right to exclude the public from accessing
87 | and using the sandy beach or any associated accessway.

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