

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 850

INTRODUCER: Senator Pizzo

SUBJECT: Exposure of Sexual Organs

DATE: February 3, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Stokes</u>	<u>Jones</u>	<u>CJ</u>	Favorable
2.	<u>McMillan</u>	<u>McKay</u>	<u>CM</u>	Pre-meeting
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 850 amends s. 800.03, F.S., to specifically permit being naked in public while on clothing-optional beaches.

Section 800.03, F.S., provides that it is unlawful for a person to expose or exhibit his or her sexual organs in a vulgar or indecent manner while in public or private view. A mother who is breastfeeding does not violate this section.

The bill takes effect July 1, 2020.

II. Present Situation:

Florida has multiple clothing-optional beaches along the east coast. Top clothing-optional locations include Haulover Beach, Blind Creek Beach, Playalinda and Apollo Beaches.¹ While it is permissible to be naked at clothing-optional beaches, it is unlawful to engage in sexual activity. Many of the clothing-optional beaches advise that individuals conducting themselves in a lewd manner will be arrested.²

There are multiple ways in which a beach may be recognized as clothing-optional. For example, St. Lucie County commissioners are expected to vote on a county ordinance to officially

¹ *Top Nude Beaches in Florida*, Visit Florida, Carlos Harrison, available at: <https://www.visitflorida.com/en-us/florida-beaches/nude.html> (last visited Feb 3, 2020).

² *Frequently Asked Questions*, Haulover Beach, available at: <https://www.hauloverbeach.org/faq/> (last visited Feb. 3, 2020); *Naturist Beach Etiquette for Blind Creek Beach*, Treasure Coast Naturists, available at: <http://www.treasurecoastnaturists.org/beach-etiquette.html> (last visited Feb. 3, 2020).

recognize Blind Creek Beach as a clothing-optional beach.³ According to the American Association for Nude Recreation Florida Region, nude tourism has a \$7.4 billion annual economic impact for Florida.⁴

Exposure of sexual organs

Section 800.03, F.S., provides that it is unlawful for a person to expose or exhibit his or her sexual organs in a vulgar or indecent manner while in public or private view. A mother who is breastfeeding does not violate this section.

Courts have consistently held that being naked alone is not sufficient to violate s. 800.03, F.S. To trigger a violation, there must also be a “lascivious” exhibition of the sexual organs.⁵ Some counties have enacted county ordinances which specifically address public nudity.⁶ Similarly, the Department of Environmental Protection (DEP) has enacted a rule that specifically prohibits nudity in parks.⁷ These local ordinances or rules may further restrict nudity in their respective jurisdictions.

III. Effect of Proposed Changes:

The bill amends s. 800.03, F.S., to specifically permit being naked in public while on clothing-optional beaches.

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

³ St. Lucie County could be a step closer to having official nude beach, Al Pefley, CBS12 News January 7th 2020, available at: <https://cbs12.com/news/local/st-lucie-county-could-be-a-step-closer-to-having-official-nude-beach> (last visited Feb. 3, 2020).

⁴ The Economic Impact of Nude Tourism and Recreation in Florida, *American Association for Nude Recreation Florida Region*, p. i., February 7, 2017. On file with Senate Committee on Criminal Justice.

⁵ See *Hoffman v. Carson*, 250 So. 2d 891 (Fla. 1971); *Goodmakers v. State*, 450 So. 2d 888 (Fla. 2d. DCA, 1984); *Duvalton v. State*, 404 So. 2d 196 (Fla. 1st DCA, 1981).

⁶ Brevard County, Florida, Municipal Code art. II., s. 74-30.

⁷ Rule 62D-2.014(7)(a), F.A.C., states that in every area of a park including bathing areas no individual shall expose the human, male or female genitals, pubic area, the entire buttocks or female breast below the top of the nipple, with less than fully opaque covering.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 800.03 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.