

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1323 Private Campground Liability

**SPONSOR(S):** Civil Justice Subcommittee, Black

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1054

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	11 Y, 5 N, As CS	Loyed	Jones
2) Regulatory Reform & Economic Development Subcommittee			
3) Judiciary Committee			

### SUMMARY ANALYSIS

Recreational camping is a large industry in Florida that has grown increasingly more popular since the onset of the COVID-19 pandemic. However, camping carries certain inherent risks, such as physical injury to campers and damage to their personal property. Such injury or damage may be caused by a wide array of factors that are outside of the control of a private campground operator. Activities such as campfires, swimming, and hiking, as well as natural threats from weather or wildlife, pose significant risk of injury and damage to a camper. Under current law, a private campground operator can be held liable for an injury to a camper or damage to a camper's property even if the injury or property damage resulted from one of the many inherent risks associated with camping.

CS/HB 1323 creates s. 513.201, F.S., to provide immunity from civil liability to a private campground operator for certain injury or damages incurred as a result of the inherent risks of camping.

The bill provides an exception to the liability shield where a private campground operator:

- Intentionally injures or kills another person or intentionally causes damage to or the loss of another person's property; or
- Commits an act or omission that constitutes willful or wanton disregard for the safety of another person and such act or omission proximately causes the other person's injury or death or the damage to or loss of the other person's property.

Under the bill, to be eligible for the immunity from liability, a private campground operator must provide adequate notice and disclosure to campers of the inherent risks of camping. The bill establishes minimum requirements for such notice, signage, and disclosure.

If a private campground operator fails to provide adequate notice of the inherent dangers of camping, he or she may not invoke the privilege of immunity provided by the bill.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2023.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### *The Florida Camping Industry*

Camping in Florida has a long and rich history and remains popular today.<sup>1</sup> Industry statistics show that the Florida campground and recreational vehicle (RV) park industry has a market size of over \$300 million and consists of more than six hundred businesses.<sup>2</sup> In recent years, particularly following the COVID-19 pandemic, camping at private campgrounds has become a rapidly growing industry in Florida. In 2020 alone, RV park and campground usage in Florida grew by 20%.<sup>3</sup>

However, camping is not all fun and games and comes with certain risks and dangers. There are inherent risks associated with camping, which may cause property damages, bodily injury, or death. Such injuries may be caused by campfires, fireworks, difficult hiking routes, wildfire, or wildlife. Under current law, a private campground operator can be held liable for an injury to a camper or damage to a camper's property, despite the fact that the injury or property damage resulted from one of the many inherent risks associated with camping.

#### Effect of Proposed Changes

CS/HB 1323 creates s. 513.201, F.S., and provides that a private campground operator<sup>4</sup> is immune from civil liability for acts or omissions related to camping<sup>5</sup> at a private campground<sup>6</sup> if, as a result of the inherent risks of camping, a person or animal is injured or killed or a person's property is damaged or lost at the private campground.

The bill defines the "inherent risks of camping" as "the danger or condition assumed as a part of camping at a private campground," which include dangers posed by any of the following:

- Features of the natural world, such as trees, naturally occurring infections agents, tree stumps, roots, brush, rocks, mud, sand, standing and moving water, and soil.
- Uneven or unpredictable terrain.
- Natural bodies of water
- A person acting in a negligent manner if the private campground operator is not aware of or involved in such action.
- A lack of lighting, including lighting, including a lack of lighting at a campsite. The immunity provided by the bill does not include a lack of lighting at structures such as bathhouses, laundry facilities, visitor centers, game rooms, or other similar common area structures.
- Campfires contained in or outside of a fire pit or enclosure provided by the campground; bonfires; grass or brush fires; wildfires; and forest fires.
- Weather.

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<sup>1</sup> See, e.g., Gary McKechnie, *Camping in Florida*, Visit Florida, <https://www.visitflorida.com/places-to-stay/campgrounds-and-rv-parks/> (last visited Mar. 14, 2023).

<sup>2</sup> *Campgrounds and RV Parks in Florida – Market Research Report*, IBIS World (Aug.18, 2022), <https://www.ibisworld.com/us/industry/florida/campgrounds-rv-parks/20388/> (last visited Mar. 13, 2023).

<sup>3</sup> Ileana Najarro, *RV Industry continues to grow in Florida, spurred in part by the pandemic*, Tampa Bay Times (Apr. 29, 2012), <https://www.tampabay.com/news/health/2021/04/28/rv-industry-continues-to-grow-in-florida-spurred-in-part-by-the-pandemic/> (last visited Mar. 13, 2023).

<sup>4</sup> "Private campground operator" is defined in the bill as "the owner, operator, keeper, lessor, proprietor, manager, assistant manager, desk clerk, agent, or employee of a private campground, including a lodging park, recreational vehicle park, or recreational camp, who is designated as the individual solely responsible for the daily operation of the private campground pursuant to this chapter."

<sup>5</sup> "Camping" is defined as "all aspects of visiting, staying at, using, and departing from a private campground, regardless of the type of lodging a guest visited, stayed at, used, or departed from at the private campground."

<sup>6</sup> "Private campground" is defined as "a facility that provides sites on which recreational vehicles, camping units, and tents may be placed for transient occupancy and that is owned and operated, directly or indirectly, by a private property owner." The term also includes a lodging park, recreational vehicle park, or recreational camp as those terms are defined in s. 513.01, F.S.

- Insects, birds, and other wildlife.
- Violations or disregard by a person of any posted or established safety rules or posted signs communicating warning.
- Actions by a person which exceed the physical limitations or abilities of such person.
- Animals of other persons which cause injury, unless the private campground has accepted responsibility for the care of the animal.
- Any person coming onto a campsite who is not known to the private campground operator.

The bill does not extend immunity from liability to a private campground operator if the private campground operator:

- Intentionally injures or kills another person or intentionally causes damage to or the loss of another person's property; or
- Commits an act or omission that constitutes willful or wanton disregard for the safety of another person and such act or omission proximately causes the other person's injury or death or the damage to or loss of the other person's property.

Under the bill, a private campground operator must provide notice of the inherent risks of camping to be eligible for immunity from liability. To be eligible for immunity, a private campground operator must either:

- Post a sign that includes a notice of the inherent risks of camping in a clearly visible location at the entrance to the private campground. Such notice must be in black letters that are at least one inch in height each, with sufficient color contrast to be clearly visible.
- Include the specific notice in a clearly readable print on any applicable written contract with a person who uses or visits the private campground.

A private campground operator who posts a sign or enters into a contract with a camper to qualify for immunity under the bill must include, at a minimum, the following language in clearly readable print:

### WARNING

Under Florida law, a private campground owner, operator, or employee is not liable for a person's injury or death, or any damage to or loss of such person's property, who is camping at a private campground if such injury, death, damage, or loss results from the inherent risks of camping. The inherent risk of camping includes, but is not limited to, risk of injury, death, damage, or loss inherent to land, equipment, weather, animals, and actions by other persons, as well as the potential for you to act in a negligent manner that may contribute to your own injury or death or the damage to or loss of your own property. You are camping at your own risk.

If a private campground operator fails to provide adequate notice of the inherent dangers of camping via either posting a sign or contracting with a person utilizing the private campground, the private campground operator may not invoke the privilege of immunity provided by the bill.

The bill provides an effective date of July 1, 2023.

#### B. SECTION DIRECTORY:

**Section 1:** Creates s. 513.201, F.S., relating to private campground liability.

**Section 2:** Provides an effective date of July 1, 2023.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill has the potential to limit the cost of litigation to businesses in the private campground industry.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 20, 2023, the Civil Justice Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The committee substitute:

- Removed fireworks from the enumerated list of the inherent risks of camping.
- Removed facilities allowing the use of water, including piers, docks, and recreational facilities or areas used for swimming and water sports from the enumerated list of inherent risks of camping.
- Clarified that a lack of lighting in common area structures is not an inherent risk of camping.
- Removed a provision providing for the award of attorney fees.

This analysis is drafted to the committee substitute as passed by the Civil Justice Subcommittee.