

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 Health Regulation Committee

BILL: SB 480

INTRODUCER: Senator Dean

SUBJECT: Mobile Home and Recreational Vehicle Parks

DATE: January 23, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	O'Callaghan	Stovall	HR	Favorable
2.	Anderson	Yeatman	CA	Pre-meeting
3.			BC	
4.				
5.				
6.				

I. Summary:

The bill establishes uniform standards within ch. 513, F.S., for which the Department of Health (department) is responsible for administering and enforcing. Local government regulations may not be inconsistent with these standards. The bill also establishes a department review and approval process for the construction of a new mobile home park, lodging park, recreational vehicle park, or recreational camp; or certain changes to an existing park or camp. The bill creates standards for separation distances between recreational vehicles and setback distances from the exterior property boundary of recreational vehicle parks.

The bill also revises the responsibilities of a recreational vehicle park operator in relation to personal property that is left on the premises and provides a criminal penalty for when a person fails to depart from a recreational vehicle park under certain conditions.

The bill substantially amends the following sections of the Florida Statutes: 513.01, 513.012, 513.014, 513.02, 513.03, 513.045, 513.05, 513.054, 513.055, 513.10, 513.112, 513.115, and 513.13.

This bill creates s. 513.1115, F.S., and repeals s. 513.111, F.S.

II. Present Situation:

The department is required under s. 381.006, F.S., to conduct an environmental health program as part of fulfilling the state's public health mission. The mission of the environmental health program is to detect and prevent disease caused by natural and manmade factors in the

environment. The environmental health program includes the oversight of mobile home parks, lodging parks, recreational vehicle parks, and recreational camps, as provided in ch. 513, F.S.¹

Chapter 513, F.S., provides that the department is the exclusive regulatory and permitting authority for sanitary standards for all mobile home parks, lodging parks, recreational vehicle parks and recreational camps.² In addition to permit and sanitation requirements, ch. 513, F.S., requires each recreational vehicle park renting by the day or week to post its rates, regulates the manner in which the rates are advertised, and requires each operator of a recreational vehicle park to maintain a guest register and a copy of ch. 513, F.S.

Chapter 513, F.S., also provides for:

- The operator of a recreational vehicle park's liability;
- The disposition of unclaimed property;
- The establishment of park rules and regulations;
- The right of a park operator to refuse accommodations or service in certain circumstances;
- Criminal penalties for persons obtaining park accommodations through fraud;
- Criminal penalties for theft of property belonging to the park;
- The eviction of transient guests; and
- Writs of distress.³

Pursuant to s. 513.05, F.S.,⁴ the department has adopted rules in Chapter 64E-15, Florida Administrative Code (F.A.C.), pertaining to: minimum area requirements, water supply, sewage disposal, sanitary facilities, plumbing, garbage and refuse disposal, insect and rodent control, recreational camp standards, permits and fees, and owner's and operator's responsibilities.⁵

The Mobile Home and Recreational Vehicle Parks Program is administered within the department by the Division of Environmental Health. The program's primary objective is to minimize the risk of injury and illness by conducting routine inspections of parks and camps. The inspections focus on proper sewage disposal, safe drinking water, safe solid waste collection and disposal, and safe and disease-free swimming pools (where provided) to minimize the risk of certain diseases and minimize infestations of harmful insects and rodents. The county health departments are responsible for receiving and investigating environmental health and sanitation complaints; they also conduct routine inspections, plan reviews, educational programs, investigations, complaints, and enforcement actions.⁶

¹ Section 381.006(14), F.S.

² Section 513.051, F.S.

³ According to s. 83.12, F.S., "a distress writ shall be issued by a judge of the court which has jurisdiction of the amount claimed. The writ shall enjoin the defendant from damaging, disposing of, secreting, or removing any property liable to distress from the rented real property after the time of service of the writ until the sheriff levies on the property, the writ is vacated, or the court otherwise orders." Section 513.151, F.S., authorizes an operator of a recreational vehicle park to levy a lien against the property of a guest if a guest vacates the premises with an outstanding account.

⁴ See s. 513.05, F.S., "The department may adopt rules pertaining to the location, construction, modification, equipment, and operation of mobile home parks, lodging parks, recreational vehicle parks, and recreational vehicle camps... as necessary to administer this chapter."

⁵ See 64E-15.002-15.008, F.A.C.

⁶ The Department of Health, Division of Environmental Health, *Mobile Home and Recreational Vehicle Park Program*, available at: <<http://www.doh.state.fl.us/environment/community/mobile/index.html>> (Last visited on January 4, 2012).

The department's enforcement actions may include citations, fines, or suspension or revocation of an operating permit.⁷ However, the department may only use a single enforcement procedure for any one violation.⁸ Certain violations of ch. 513, F.S., are also subject to criminal penalties.⁹

Currently, there are approximately 5,600 mobile home parks, lodging parks, recreational vehicle parks, and recreational camps in Florida.¹⁰ Permits for mobile home parks, lodging parks, recreational vehicle parks, and recreational camps are issued annually by the department under s. 513.02, F.S. Section 513.045, F.S., sets the permissible statutory range for permit fees at \$3.50-\$6.50 per space, and the total assessed fee at no less than \$50 or more than \$600, annually.¹¹ Permit fees are set by department rule at \$4 per space and cumulatively not less than \$100 or more than \$600 annually.¹²

Certain local governments have adopted ordinances with definitions of terms that conflict with the definition of terms under ch. 513, F.S. For example, Charlotte County¹³ has adopted an ordinance that defines a "mobile home" as a vehicle exceeding 8 feet in width and 32 feet in overall length, which contradicts the definition of the term mobile home in s. 513.01(3), F.S., which defines a mobile home as a residential structure that is 8 body feet (2.4 meters) or more in width and over 35 feet in length with the hitch. Volusia County¹⁴ defines a "recreational vehicle" as a unit built on a single chassis, not exceeding 400 square feet, designed to be self-propelled or towed by a light-duty truck, and intended only for temporary occupancy. In contrast, the definition of recreational vehicle in s. 513.01(9), F.S.,¹⁵ provides for different length and width requirements,¹⁶ the period of occupancy, and the storage and tying down of such vehicles.

III. Effect of Proposed Changes:

Section 1 amends s. 513.01, F.S., to revise the definition of "mobile home" and to define "occupancy." The definition of "mobile home" is modified to exclude a structure originally sold as a recreational vehicle. The term "occupancy" is defined to mean the length of time that a recreational vehicle is occupied by a transient guest and not the length of time that the vehicle is located on the leased recreational site. This definition also provides that certain tie-downs and removable attaching devices do not render the recreational vehicle a permanent part of the site.

⁷ Sections 513.055 and 513.065, F.S.

⁸ Section 513.065(6), F.S.

⁹ Sections 513.054 (second-degree misdemeanor for specified offenses by an operator of a camp or park), 513.10 (second-degree misdemeanor for operating without a permit), 513.111 (second-degree misdemeanor for an advertising violation), and 513.122, F.S. (third-degree felony for theft of guest property by park employee).

¹⁰ Mobile Home/RV Park Listing, Department of Health, Division of Environmental Health, *Mobile Home and Recreational Vehicle Park Program*, available at: <http://www.doh.state.fl.us/environment/community/mobile/index.html>. (Last visited on January 4, 2012).

¹¹ Section 513.045, F.S.

¹² Rule 64E-15.010, F.A.C.

¹³ Ordinances of Charlotte County, Florida, Part III: *Land Development and Growth Management*, Ch. 3-4 "Mobile Homes," S. 3-4-1, "Definitions," available at: http://library.municode.com/HTML/10526/level2/PTIILADEGRMA_CH3-4MOHO.html#PTIILADEGRMA_CH3-4MOHO_S3-4-1DE (Last visited on January 4, 2012).

¹⁴ Volusia County Code of Ordinances, Ch. 72: *Land Planning*, "Definitions," available at: <http://library.municode.com/index.aspx?clientid=11665> (Last visited on January 4, 2012).

¹⁵ Section 513.01(9), F.S., refers to the definition of "recreational vehicle-type unit" in s. 320.01, F.S.

¹⁶ See s. 316.515, F.S.

Section 2 amends s. 513.012, F.S., to specify that the department is responsible for administering and enforcing uniform laws under ch. 513, F.S. Subsection (2) is created to establish uniform standards, which must include:

- The design, location, and site sizes for sites in parks and camps;
- Sanitary standards for permitting and the operation of parks and camps;
- Permitting of parks and camps as required by ch. 513, F.S.;
- Inspection of parks and camps to enforce compliance with ch. 513, F.S.; and
- Permit requirements.

The bill also creates subsection (3) to establish that ch. 513, F.S., provides the uniform standards pertaining to:

- The liability for property of guests left on sites;
- Separation and setback distances established at the time of approval;
- Unclaimed property;
- Conduct of transient guests;
- Theft of personal property;
- Evictions of transient guests;
- Writs of distress;
- The maintenance of guest registers;
- Occupancy standards for transient rentals; and
- Placement of recreational vehicles by size and type.

Subsection (4) is created to require that local government actions, ordinances, and resolutions be consistent with the uniform standards provided under ch. 513, F.S., and by department rule. However, the bill does not limit the authority of local governments to adopt and enforce local land use, building, fire safety, and other regulations.

Section 3 amends s. 513.014, F.S., to remove a redundant provision that a mobile home park that rents spaces to recreational vehicles for long-term leases, must comply with the laws and rules relating to mobile home parks in ch. 723, F.S.

Section 4 amends s. 513.02, F.S., to require a person, who operates or maintains a mobile home park, lodging park, recreational vehicle park, or recreational camp, to have the department review and approve new construction or changes to the park or camp, which require the construction of new sanitary facilities or additional permitted sites, prior to the commencement of such activities. The department shall identify by rule the procedures and items required to be submitted for review and approval.

The bill designates the permit referred to in current law as an *operating* permit. Inconsistent references to transferring permits are eliminated because permits are not transferrable, pursuant to s. 513.02, F.S. The bill requires a purchaser, who continues to operate the park or camp, to apply for an operating permit within 30 days after the date of sale, rather than before the date of the sale.

The bill authorizes a person to submit plans related to a proposed park or camp to the department for review for an assessment of whether the plans meet the requirements of ch. 513, F.S. A

person constructing a new park or camp or adding spaces or renovating an existing park or camp is required to submit plans to the department for review and approval prior to construction, renovation, or addition of spaces.

Section 5 amends s. 513.03, F.S., to require additional information that must be submitted in an application for an operating permit. The additional information must include the number of buildings and sites set aside for group camping, including barracks, cabins, cottages, and tent spaces. The department is required to issue the necessary approval or operating permit, after reviewing the application, conducting an inspection, and determining that the park or camp is not a source of danger to the health of the general public and the park or camp complies with the requirements of ch. 513, F.S.

Section 6 amends s. 513.045, F.S., to clarify language related to the fees imposed for the operating permit. Obsolete language is repealed because the department has adopted rules setting the required fee amounts.

Section 7 amends s. 513.05, F.S., to clarify the department's authority to adopt rules related to reviewing plans that consolidate or expand space or capacity of parks or camps.

Section 8 amends s. 513.054, F.S., to clarify that a person who does not obtain an *operating* permit for a mobile home park, lodging park, recreational vehicle park, or recreational camp or refuses to pay the *operating* permit fee commits a misdemeanor of the second degree.

Section 9 amends s. 513.055, F.S., to clarify that the permit referred to in this section related to the revocation or suspension of a permit applies to an *operating* permit.

Section 10 amends s. 513.10, F.S., to clarify that a person who maintains or operates a mobile home park, lodging park, recreational vehicle park, or recreational camp without first obtaining an *operating* permit or who maintains or operates a park or camp after revocation of the operating permit commits a misdemeanor of the second degree.

Section 11 repeals s. 513.111, F.S., which provides posting or publishing requirements of site rates for a recreational vehicle park that rents by the day or week, certain advertising requirements for recreational vehicle parks, and criminal penalties for those who violate the posting, publishing, or advertising requirements.

Section 12 creates s. 513.1115, F.S., to require the separation distances between recreational vehicles and the setback distances from the exterior property boundary of a recreational vehicle park to be maintained at the distances and setback distances established at the time of the initial approval of the recreational vehicle park by the department and local government. The bill specifies that the separation distance and setback distance requirements provided for in this section do not limit the regulation of the uniform fire safety standards under s. 633.022, F.S.

Section 13 amends s. 513.112, F.S., to eliminate the requirement that the guest registry of a recreational vehicle park must be made available to the department for inspection.

Section 14 amends s. 513.115, F.S., to authorize an operator of a recreational vehicle park to dispose of property unclaimed for 90 days by a guest who has vacated the premises without notice to the operator and who has an outstanding account. An owner of a park is no longer required to provide written notice to any guest or owner of property left at the park prior to disposing of the property. However, the property still must be held by the park for 90 days prior to disposal. The bill specifies that any titled property, including a boat, recreational vehicle, or other vehicle, must be disposed of in accordance with the requirements of ch. 715, F.S.

Section 15 amends s. 513.13, F.S., to provide that if an operator of a recreational vehicle park notifies a person to leave the park for a permissible reason, by either posting or personal delivery, in the presence of a law enforcement officer, and the person fails to depart from the park immediately, the person commits a misdemeanor of the second degree. Pursuant to current subsection (1) of s. 513.13, F.S., permissible reasons for removal include: possessing or dealing in controlled substances, disturbing the peace and comfort of other persons, causing harm to the physical park, or failing to pay the rental rate as agreed.

A recreational vehicle park operator is not liable for damages to personal property left on the premises by a guest who has been arrested for possessing or dealing in controlled substances, disturbing the peace and comfort of other persons, causing harm to the physical park, or failing to pay the rental rate as agreed or for the failure to leave the park after being notified to leave for a permissible reason.

Section 16 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill removes obsolete language pertaining to interim fees and clarifies that the existing fee structure applies to *an annual operating* permit. There are no provisions for the late payment of the annual operating permit fee.

B. Private Sector Impact:

The bill affects newly constructed parks and camps, existing parks or camps that will be expanded, and parks and camps that do not submit the required fees. The uniform standards related to design, operation, and occupancy imposed by the bill could minimize negative fiscal impacts to the industry which result from existing inconsistent local government rules.

C. Government Sector Impact:

The bill requires the department to adopt administrative rules and implement new requirements. The department states that this bill will have a fiscal impact on the department associated with rule amendments and implementing requirements. The department estimates that it will incur estimated expenditures of \$4,158, which will be absorbed by the department using existing resources.¹⁷

VI. Technical Deficiencies:

The terms “spaces” and “sites” seem to be used interchangeably. It may provide clarity and consistency to use and define one term.

VII. Related Issues:

As the department points out in their analysis of the bill,¹⁸ there appears to be an internal conflict in the bill. Lines 168-172 seem to allow a person, who purchases a recreation vehicle park or camp, to operate the park or camp up to 30 days without an operating permit. However, lines 296-302 provide penalties for operating a park or camp without a permit.

Another inconsistency appears to be in lines 168-175 of the bill. Lines 172-175 require an applicant for a permit to provide the department with a copy of a recorded deed *or lease agreement* before the department may issue an operating permit. Lines 168-172 require a purchaser of a camp or park to apply for an operating permit within a certain time from the date of sale, but the bill is silent as to the application requirements when a park or camp is leased. Additionally, the bill does not contemplate circumstances under which property rights might be inherited.

Lines 310 and 315 seem to indicate that local governments, in addition to the department, must provide initial approval of the recreational vehicle park. However, lines 176-183 only provide for initial approval of parks by the department.

The language in lines 63-70 is currently provided for in the definition of the term “recreational vehicle” under s. 513.01, F.S. Therefore, it appears that inclusion of this language under the definition of the term “occupancy” is redundant.

¹⁷ Department of Health, *Agency Bill Analysis, Economic Statement and Fiscal Note: SB 480*, p. 8 (December 7, 2011) (on file with the Senate Committee on Health Regulation).

¹⁸ Department of Health, *Agency Bill Analysis, Economic Statement and Fiscal Note: SB 480*, p. 12 (December 7, 2011) (on file with the Senate Committee on Health Regulation).

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
