

By Senator Lawson

6-1170-03

1                                   A bill to be entitled  
 2           An act relating to the Florida Trail Program;  
 3           amending s. 334.044; creating s. 334.352, F.S.;  
 4           providing for the planning, acquisition, lease,  
 5           construction, and maintenance of the trail by  
 6           the Department of Transportation; limiting  
 7           liability of landowners for injuries resulting  
 8           from third-party use of trail land for  
 9           specified activities and purposes; providing  
 10          for a landowner to be indemnified for injury or  
 11          damage, providing for funding; providing an  
 12          effective date.

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

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 16           Section 1. Subsection (32) is added to section  
 17 334.044, Florida Statutes, to read:

18           334.044 Department; powers and duties.--The department  
 19 shall have the following general powers and duties:

20           (32) To plan, acquire, lease, construct, and maintain  
 21 the Florida Trail pursuant to s. 334.352.

22           Section 2. Section 334.352, Florida Statutes, is  
 23 created to read:

24           334.352 Florida Trail Program.--

25           (1) There is established within the department the  
 26 Florida Trail Program to facilitate the establishment of a  
 27 1,300 mile system of trails in this state. Such trails shall  
 28 be acquired by written consent of landowners or pursuant to  
 29 the department's authority under s. 344.044(6) using the  
 30 process provided in chapter 74 after exhaustion of other

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1 alternative means as provided in s. 73.015. Identification of  
2 lands in such information may not:  
3 (a) Require or empower any local government or state  
4 agency, to impose additional or more restrictive  
5 environmental, land-use, or zoning regulations;  
6 (b) Be construed or cited as authority to adopt,  
7 enforce, or amend any environmental rule or regulation; any  
8 goals, policies, or objectives of the comprehensive plan; or  
9 any zoning or land-use ordinance; or  
10 (c) Be used as the basis for permit denial, imposition  
11 of any permit condition, or application of any rule or  
12 regulation.  
13 (2) The department may appropriate a right-of-way with  
14 a minimum width of 3 feet.  
15 (3)(a) A private landowner whose land is designated as  
16 part of the Florida Trail Program, including a person holding  
17 a subservient interest, owes no duty of care to keep that land  
18 safe for entry or use by others or to give warning to persons  
19 entering that land of any hazardous conditions, structures, or  
20 activities thereon. Such landowner:  
21 1. Is not presumed to extend any assurance that the  
22 land is safe for any purpose;  
23 2. Does not incur any duty of care toward a person who  
24 goes on the land; and  
25 3. Is not liable for any injury to persons or property  
26 caused by the act or omission of a person who goes on the  
27 land.  
28 (b) Paragraph (a) applies to invitees, licensees,  
29 trespassers, or any others who go on the designated trail.  
30 (4) A private landowner who consents to the  
31 designation of his or her land as part of the Florida Trail

1 Program without compensation is a volunteer, as defined in s.  
2 110.501, and covered by state liability protection pursuant to  
3 s. 768.28.

4 (5)(a) Subsection (3) does not apply if the landowner  
5 charges a fee to enter upon or use any part of the land  
6 designated as a trail, or if any commercial or other activity  
7 that generates profit for the landowner from the patronage of  
8 the general public is conducted on the land designated for the  
9 trail.

10 (b) Incentives granted by a governmental unit to a  
11 private landowner, including tax incentives, grants, or other  
12 financial consideration specific to the development or  
13 management of designated trails, is not a charge or profit  
14 under paragraph (a).

15 (6) Subsection (3) also applies to adjacent land owned  
16 by a private landowner who consents to designation of a trail,  
17 if such adjacent land is accessed through the land so  
18 designated.

19 (7)(a) When a private landowner agrees to make land  
20 available for public use as a designated trail, the department  
21 shall post notices along the boundary of the trail which  
22 inform the public that the land adjacent to the trail is  
23 private property and that unauthorized entry is prohibited and  
24 constitutes trespassing.

25 (b) Such notices must comply with s. 810.011(5) and  
26 constitute a warning to unauthorized persons to remain off the  
27 private property and not to depart from the designated trail.  
28 A person who commits an unauthorized entry commits a trespass  
29 as provided in s. 810.09.

30 (8) If agreed to by the department and the landowner  
31 in the designation agreement, a landowner whose land is

1 designated as part of the statewide system of trails shall be  
2 indemnified for:

3 (a) Any injury or damage incurred by a third party  
4 arising out of the use of the designated trail;

5 (b) Any injury or damage incurred by a third party on  
6 lands adjacent to and accessed through the designated trail;  
7 and

8 (c) Any damage to the landowner's property, including  
9 land adjacent to and accessed through the designated trail,  
10 caused by the act or omission of a third person resulting from  
11 any use of the land so designated.

12 (9) This section does not relieve any person of  
13 liability that would otherwise exist for deliberate, willful,  
14 or malicious injury to persons or property, nor does it create  
15 or increase the liability of any person.

16 (10) The department may accept state and federal  
17 funds, grants, and donations of property, labor, or other  
18 things of value from any public or private source which are  
19 bequests for purposes of the trail.

20 Section 3. This act shall take effect upon becoming a  
21 law.

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24 SENATE SUMMARY

25 Creates the Florida Trail Program within the Department  
26 of Transportation. Provides powers and duties of the  
department in acquiring land for the trail.

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