

By the Committee on Environmental Preservation and Conservation;  
and Senator Justice

592-03877-09

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1                                   A bill to be entitled  
2           An act relating to public access to beaches; creating  
3           part V of ch. 161, F.S.; providing definitions;  
4           providing a declaration of public policy and effect;  
5           prohibiting persons from restricting access;  
6           prohibiting obstruction of beach access except as  
7           otherwise authorized by law; prohibiting the use of  
8           signs declaring that a public beach is private  
9           property; providing that a violation of such  
10          prohibition is a first-degree misdemeanor; providing a  
11          penalty; prohibiting a governmental entity from  
12          placing an obstruction upon or limiting public access  
13          to a public beach except under certain conditions;  
14          providing for the use of prima facie evidence in suits  
15          to exclude the public from accessing and using a sandy  
16          beach; providing an effective date.

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

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

23                                   PART V

24                                   PUBLIC BEACH ACCESS

25           161.80 Definitions.—As used in this part, the term:

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

592-03877-09

2009488c1

30 high tide or water line by prescription, prescriptive easement,  
31 or any other legal means. Development or construction shall not  
32 interfere with the right of public access unless a comparable  
33 alternative accessway is 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 titled to the Board of Trustees of the Internal Improvement  
41 Trust Fund lying seaward of the line of mean high water or a  
42 recorded erosion control line.

43 161.81 Declaration of policy and effect.—

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

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

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

54 161.82 Unlawful barriers to use of public beaches.—

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

56 1. Obstruct or cause obstruction of beach access by  
57 fencing, barricading, or causing any other obstruction, unless  
58 such obstruction is otherwise authorized by law.

592-03877-09

2009488c1

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

62 (b) A person who violates this subsection commits a  
63 misdemeanor of the first degree, punishable as provided in s.  
64 775.082 or s. 775.083.

65 (2) A governmental entity may not:

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

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

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

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

73 4. Otherwise authorized by law.

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

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

83 161.83 Prima facie evidence.—In a suit brought or defended  
84 under this part or whose determination is affected by this part,  
85 proof of record title to a sandy beach that is landward of a  
86 sovereign beach is not prima facie evidence that the titleholder  
87 has a right to exclude the public from accessing and using the

592-03877-09

2009488c1

88 sandy beach or any associated accessway.

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