

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 847 Mobile Home and Recreational Vehicle Parks

SPONSOR(S): Rulemaking & Regulation Subcommittee; Broxson

TIED BILLS: **IDEN./SIM. BILLS:** SB 292

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Rulemaking & Regulation Subcommittee	13 Y, 0 N, As CS	Miller	Rubottom
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			
4) Economic Affairs Committee			

SUMMARY ANALYSIS

Mobile home parks, lodging parks, recreational vehicle parks, and recreational camps are regulated under Chapter 513, F.S. The Florida Department of Health (“department”) is responsible for enforcing laws and rules relating to sanitation and the control of communicable diseases in these establishments. The bill amends statutory provisions relating to occupancy in, and the department’s regulation of, mobile home and recreational vehicle parks by:

- Revising the definition of “mobile home,” and providing a new definition of the term “occupancy” relating to recreational vehicles;
- Establishing statewide uniform standards regulating mobile home parks, lodging parks, recreational vehicle parks, and recreational camps;
- Specifying the applicable standards and criteria for the department to promulgate and enforce applicable rules;
- Requiring local governmental actions, ordinances and resolutions to be consistent with the uniform standards established by rules of the department;
- Confirming the authority of a local governments to adopt and enforce land use, building, fire safety, and other unspecified regulations is not otherwise limited;
- Authorizing the voluntary submission of plans for a proposed park or camp for a department assessment as to whether the plans meet the requirements of Chapter 513, F.S.;
- Requiring submission to the department of construction plans for parks and camps for review and approval prior to commencing construction, renovation, or addition;
- Changing the deadline for applying for an operating permit from before the date of a transfer to within 30 days of a sale;
- Repealing provisions requiring the posting and advertising of site rates;
- Requiring separation and setback distances to be established at the time of initial park approval;
- Repealing a provision requiring guest registers to be made available for inspection by the department;
- Providing for the disposal of unclaimed titled property;
- Providing that a person who fails to depart from a park immediately under certain circumstances commits a misdemeanor of the second degree;
- Protecting a park operator from liability for abandoned property in certain circumstances; and
- Clarifying and expanding the rulemaking authority of the department.

This bill requires an insignificant expenditure of funds associated with rule promulgation by the department.

The bill has an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapter 513, F.S., provides for general regulation of mobile home parks, lodging parks, recreational vehicle parks, and recreational camps, including sanitation, density, occupation, permitting, and periodic inspection.¹ The Department of Health (“department”) is responsible for statewide environmental health which includes establishments regulated under Chapter 513, F.S.² Authority for the regulation and permitting of sanitary standards is preempted to the state and exercised exclusively through the department.³

The department issues annual permits for the operation of mobile home parks, lodging parks, recreational vehicle parks, and recreational camps in Florida.⁴ Currently, there 5,641 permitted parks and camps.⁵ The annual permit fees for each type of establishment are set by department rule at \$4.00 per space (or equivalent space for recreational camps operating as commercial enterprises), with required total annual fees of no less than \$100 nor more than \$600.⁶ County health departments are responsible for receiving, investigating, and taking action concerning local sanitation complaints; they also conduct routine inspections, plan reviews, and educational programs.⁷

The department is authorized to conduct periodic inspections⁸ including inspection of the guest register required to be maintained by the operator of a recreational vehicle park.⁹ Sanctions for violating the statutes include citations and fines issued by the department,¹⁰ revocation of the operating permit,¹¹ and possible criminal penalties.¹²

The statute does not require the department to determine the standards for vehicles subject to the statute. The definition of “recreational vehicle”¹³ follows the general description established under the motor vehicle licensing statutes.¹⁴ Uniform dimension and weight standards for recreational vehicles are provided by law.¹⁵ “Mobile homes” are specifically defined by statute.¹⁶

The statute delineates the rights of park operators and individuals occupying the premises. Separate statutes regulate long-term residential lease tenancies in mobile home parks, including specific provisions governing evictions.¹⁷ Those with 5 or more spaces set aside for recreational vehicles are not required to obtain 2 separate licenses but must comply with Ch. 513, F.S., in operating those specific spaces.¹⁸ For those guests occupying a recreational vehicle in the park for more than 6

¹ Ss. 513.012, 513.02, 513.052, 513.13, 513.151, F.S.

² S. 381.006, F.S.

³ S. 513.051, F.S.

⁴ S. 513.02(1), F.S.

⁵ Mobile Home/RV Park Listing, Department of Health, Division of Environmental Health website, *Mobile Home and Recreational Vehicle Park Program*, located at: <http://www.doh.state.fl.us/environment/community/mobile/index.html>. (Last visit March 20, 2011.)

⁶ Fla. Admin. Code Rule 64E-15.010(3).

⁷ Department of Health, Division of Environmental Health website, *Mobile Home and Recreational Vehicle Park Program*, id.

⁸ S. 513.052, F.S.

⁹ S. 513.112(1), F.S.

¹⁰ S. 513.065, F.S.

¹¹ S. 513.055, F.S.

¹² Ss. 513.054, 513.10, F.S. Criminal violations are treated as second degree misdemeanors.

¹³ S. 513.01(9), F.S.

¹⁴ S. 320.01(1)(b), F.S.

¹⁵ S. 316.515, F.S.

¹⁶ S. 513.01(3), F.S. This definition is consistent with, but presently not identical to, the definition provided in s. 723.003(3). The bill conforms the definition in s. 513.01(3) so that both statutes are identical.

¹⁷ Ss. 723.004, 723.031, 723.061, F.S.

¹⁸ S. 513.014, F.S.

months, the eviction requirements Ch. 83, Part II, are presumed to apply.¹⁹ For transient occupants, the statute provides specific grounds and process for eviction and recovering the premises.²⁰

The statute requires posting of rates for daily and weekly rentals in recreational vehicle parks.²¹ The requirements specify the manner in which rental information is advertised or displayed on a sign. Failure to comply with these statutory requirements is a criminal offense punishable as a second degree misdemeanor in addition to administrative sanctions against the operator's permit.

Certain local governments have adopted ordinances with differing definitions applicable under the statute. State statute defines the applicable dimensions of a mobile home as 8 feet or more in width and exceeding 35 feet in overall length,²² while a travel trailer is defined as being primarily designed for temporary accommodations and being no more than 8 ½ feet wide and 40 feet in overall length.²³ In contrast, Charlotte County ordinance defines a mobile home as a vehicle exceeding 8 feet in width and 32 feet in overall length.²⁴ Volusia County limits the definition of 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.²⁵

Effect of Proposed Changes

The primary purpose of the bill is to establish uniform standards for the operation of mobile home parks, lodging parks, recreational vehicle parks, and recreational camps in Florida, both as to health and sanitation standards and as to the particular requirements for transient occupancy in such establishments. By making these standards applicable statewide, the bill would resolve conflicting local requirements affecting the industries.

As originally written the bill authorized the department to establish uniform standards for permitting and operating parks and camp, including not only as to sanitation and health matters but also areas such as occupancy standards and maintenance of guest registers. The department's own analysis noted this expansion of rulemaking authority and expressed concern as to whether sufficient guidance was provided.²⁶ To adopt rules an agency must have not only general authority but also a specific statute to be implemented.²⁷ The statute being implemented must provide specific standards and guidelines to preclude the administrative agency from exercising unbridled discretion in creating policy or applying the law.²⁸ This issue was resolved by amendment and the bill now expressly guides and limits the department's rulemaking authority to the public health and sanitation criteria established under the general public health law.²⁹

The bill conforms the definition of "mobile home" with that applicable to mobile home residential tenancies.³⁰ 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 such a vehicle is located on the leased recreational site. To support this concept, the definition incorporates part of the definition of

¹⁹ S. 513.01(11), F.S.

²⁰ S. 513.13, 513.151, F.S.

²¹ S. 513.111, F.S.

²² See note 16, supra.

²³ See note 14, supra.

²⁴ Ordinances of Charlotte County, Florida, Part III: Land Development and Growth Management, Ch. 3-4 "Mobile Homes," S. 3-4-1, "Definitions," found at http://library.municode.com/HTML/10526/level2/PTIILADEGRMA_CH3-4MOHO.html#PTIILADEGRMA_CH3-4MOHO_S3-4-1DE. (Last visited 3/20/2011).

²⁵ Volusia County Code of Ordinances, Ch. 72: Land Planning, "Definitions," found at http://library4.municode.com:80/default-test/template.htm?view=browse&doc_action=setdoc&doc_keytype=tocid&doc_key=e442d9b0d0f9d2032b131b35d47e490b&infobase=11665 (Last visited 3/20/2011).

²⁶ Department of Health analysis of SB 292 (identical to HB 847), dated 1/12/2011.

²⁷ S. 120.536(1), F.S.

²⁸ *Sloban v. Florida Board of Pharmacy*, 982 So. 2d 26, 29-30 (Fla. 1st DCA 2008); *Board of Trustees of the Internal Improvement Trust Fund v. Day Cruise Association, Inc.*, 794 So. 2d 696, 704 (Fla. 1st DCA 2001).

²⁹ S. 381.006, F.S.

³⁰ See note 16, supra.

“recreational vehicle” confirming the tying-down and storage of the vehicle on the lot site does not render the vehicle a permanent part of the site.

The bill extensively amends section 513.012, providing legislative intent, by requiring uniform laws and rules. After revision by the Rulemaking & Regulation Subcommittee, new subsection (2) clarifies the delegation of legislative rulemaking authority by expressly creating uniform standards and directing the department to act under the authority delegated both by Ch. 513 and the more detailed provisions of s. 381.006, F.S., in the public health laws chapter. New subsection (3) clarifies that certain existing provisions in the law are intended to be statewide uniform standards:

- Occupancy standards for transient guests;
- Liability for property left by vacating guests;
- Separation and setback distances;
- Maintenance of guest registers;
- Unclaimed property;
- Conduct of transient guests;
- Theft of personal property;
- Eviction of transient guests;
- Writs of distress; and
- the placement of recreational vehicles which comply with the uniform sizes and types established under Ch. 320, F.S.

New subsection (4) requires local ordinances to conform with the statewide uniform standards for parks and camps without limiting local authority over matters such as land use and building regulations. The remainder of the present statutory section is renumbered as subsection (5).

The bill eliminates redundant language in s. 513.014, F.S., requiring mobile home parks to comply with Ch. 723, F.S., when renting spaces to recreational vehicles under a long-term lease. The permitting section is revised to clarify the permit issued to a park or camp is for *operation* of a park or camp and is not transferable upon a sale of the property. Further, the department must give prior approval for the construction or modification of a park or camp, upon submission of materials and information for that purpose which the department must specify by rule. The bill creates a new provision authorizing the department to review and advise whether proposed plans meet the terms of the statute and applicable rules if the plans are voluntarily submitted by the park or camp operator before beginning any new park construction or any addition or modification to an existing park.

The bill now clarifies the rulemaking authority of the department by requiring compliance with the specific delegations of authority both in Ch. 513, F.S., and in s. 381.006, F.S.

The bill repeals the present section of the statute regulating the posting of rental information, including eliminating the criminal sanctions for non-compliance. As part of establishing uniform standards, the bill creates s. 513.1115, requiring the separation distances within a park shall be those established at the time of initial approval. Subject to fire safety requirements, this provision would limit the ability of local governments to change the separation distances by subsequent ordinance.

The bill clarifies the procedures for a park or camp operator to dispose of property left on the premises by a vacating guest. The bill expressly makes failure of a park guest or tenant to vacate immediately when notified in the presence of a law enforcement officer a second degree misdemeanor.

B. SECTION DIRECTORY:

Section 1: Amends s. 513.01, F.S., by conforming the definition of “mobile home” with the definition in s. 723.003(3) and creates a new definition of “occupancy.”

Section 2: As amended, this section amends s. 513.012, F.S., by creating subsections (1) – (5), requiring the provisions of the statute to apply statewide as uniform standards, requiring the department to implement such standards by rulemaking, and requiring local governments to comply with the

uniform standards without impairing their ability to adopt ordinances in other areas such as land use. The bill narrows the delegation of authority to the department by establishing the uniform standards and requiring rulemaking be exercised under the specific guidance provided both in Ch. 513, F.S., and s. 381.006, F.S.

Section 3: Removes redundant language from s. 513.014, F.S.

Section 4: Amends s. 513.02, F.S., to require prior review and approval by the department of plans to construct a new park or camp or to modify or add to an existing facility. Clarifies the permit granted by the department is for operation and is not transferable. The department shall identify by rule the procedures and items required to be submitted for review and approval. Inconsistent references to transferring permits are eliminated since permits are not transferrable. The bill requires the purchaser of a 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. Adds language about submitting plans for new construction for department review.

Section 5: Amends s. 513.03 by providing for more accurate detail in permit applications as to the type of facility being operated.

Section 6: Removes outdated language as to the applicable fee rate since the department set the per lot fee as \$4.00.

Section 7: Amends and clarifies the rulemaking authority of the department.

Section 8: Conforms language in s. 513.054, F.S., to reflect the annual permit is for operation of a park or camp.

Section 9: Conforms language in s. 513.055, F.S., to reflect the annual permit is for operation of a park or camp.

Section 10: Conforms language in s. 513.10, F.S., to reflect the annual permit is for operation of a park or camp.

Section 11: Repeals s. 513.111, F.S., setting requirements for posting and advertising lot rental rates.

Section 12: Creates s. 513.1115, F.S., establishing the separation distances in a park or camp are those as initially approved, subject to fire safety considerations.

Section 13: Amends s. 513.112, F.S., to delete the department's authority to inspect guest registers.

Section 14: Amends s. 513.115, F.S., to authorize disposition of property by the park of property left by a vacating guest. Provides the disposition of titled property, such as a boat, to be conducted under Ch. 715, F.S.

Section 15: Amends s. 513.13, F.S., by making a second degree misdemeanor the failure of a tenant to vacate immediately if notice is provided in the presence of a law enforcement officer. Also specifies the park or camp operator is not liable for damages to personal property of a tenant who violates subsections (1) or (2) of this section and is arrested.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill provides no new sources of revenue.

2. Expenditures:

The department estimated there would be indeterminate costs for implementation, particularly for the required rulemaking.³¹ Since that estimate, the bill has been amended to narrow the range of rulemaking and should reduce this potential impact.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate at this time. Local governments imposing fees for these parks and camps in addition to the fees provided to the department in the statute may see a reduction in that revenue.

2. Expenditures:

Indeterminate. The revised statewide standards do not require new or additional action by local governments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. The clarification of statewide standards would appear to lessen the regulatory burden on private businesses by creating uniformity in regulation with which local governments must comply.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

As amended by the Rulemaking & Regulation Subcommittee the bill clarifies issue of delegation of legislative authority in conformity with Art. II, s. 3, Florida Constitution.

B. RULE-MAKING AUTHORITY:

The bill directly links the standards applicable to departmental rulemaking for public health purposes to the powers authorized under s. 381.006. This would appear to provide sufficient guidance and prevent any finding that the department received an invalid delegation of legislative authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The changes in the bill pertaining to the non-transferability of an operating permit address sales of a permitted park or camp. Consideration may need to be given when title to a park or camp passes by methods other than a sale, such as inheritance.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 23, 2011, the Rulemaking and Regulation Subcommittee approved an amendment to HB 847 which made the following changes incorporated into a Committee Substitute:

- In new subsection 513.012(2), the amendment clarifies the rules adopted by the department must be consistent with the authority delegated not only in Ch. 513, F.S., but also in s. 381.006, F.S.

³¹ See note 26, supra.

- New subsection 513.012(2) now states the statewide standards enforced by the department are established by the statute and not by rules of the department as provided in the original bill. The range of department-enforced standards is reduced to more accurately reflect the public health function of the department.
- New subsection (3) is revised to include certain issues from original (2) as statewide standards separate from the department's jurisdiction and to include the requirement that the dimension criteria for vehicles under Ch. 320, F.S., applies to regulating parks under Ch. 513.
- Former sub-paragraphs 513.045(1)(b)1 and 2 created in Section 6 of the original bill, providing for department review of construction plans for parks or camps, are moved into Section 5 and placed under the permitting requirements as subsections 513.03(4) and (5).
- Section 7 of the bill is revised to clarify the department's rulemaking authority under s. 513.05, F.S., is guided by the statewide standards applicable in Ch. 513 and articulated in s. 381.006, F.S.

The analysis incorporates the changes included in CS/HB 847.