

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 and Human Services Appropriations Committee

BILL: CS/CS/CS/SB 354

INTRODUCER: Health and Human Services Appropriations Committee, Community Affairs, Health Regulation Committees and Senator Dean

SUBJECT: Mobile Home and Recreational Vehicle Parks

DATE: April 13, 2010 **REVISED:** _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------|----------------|-----------|--------|
| 1. | Stovall | Wilson | HR | Fav/CS |
| 2. | Gizzi | Yeatman | CA | Fav/CS |
| 3. | Bradford | Hansen | HA | Fav/CS |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

Please see Section VIII. for Additional Information:

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|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The committee substitute to the committee substitute (CS/CS) specifies the sections of law within chapter 513, F.S., for which the Department of Health (department) is responsible for establishing uniform laws. It establishes a department review and approval process for 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 establishes 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 an operator of a recreational vehicle park related to personal property left on the premises. An additional criminal act is established when a person fails to depart from a recreational vehicle park under certain conditions.

There is no fiscal impact to this bill.

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; 513.051; 513.054; 513.055; 513.10; 513.112; 513.115; and 513.13.

The bill repeals s. 513.111 of the Florida Statutes.
The bill creates s. 513.1115 of the Florida Statutes.

II. Present Situation:

The Department of Health (department) is the exclusive regulatory and permitting authority for sanitary standards for all mobile home parks, lodging parks, recreational vehicle parks and recreational camps under ch. 513, F.S.¹ Pursuant to s. 513.05, F.S.,² the department has adopted rules in Ch. 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.³

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 focusing on "safe drinking water supply, proper sewage disposal, a safe and disease free swimming pool (where provided), and assurances that the establishment is free from garbage, harmful insects, and rodent infestations". The direct operational services of the program are performed by the department's representative county health departments and include routine inspections, plan reviews, educational programs, investigations, complaints, and enforcement actions⁴

There are approximately 5,700 mobile home parks, lodging parks, recreational vehicle parks, and recreational camps in Florida. Permits for mobile home and/or recreational vehicle parks and camps are issued annually by the department under s. 513.02, F.S. Permit fees are set by department rule at \$4 per space and cumulatively not less than \$100 or more than \$600 annually.⁵ 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.⁶

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 such a vehicle

¹ Section 513.051, F.S. Note- Mobile home park lot tenancies are addressed in ch. 723, F.S., The Florida Mobile Home Act.

² 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."

³ See 64E-15.002-15.008, F.A.C.

⁴ The 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 visited on February 9, 2010).

⁵ Rule 64E-15.010, F.A.C.

⁶ Section 513.045, F.S.

is located on the leased recreational site. Part of the current definition of “recreational vehicle” is moved to the definition of “occupancy”.

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., creating subsection (2) to provide the specific instances when the department shall establish uniform standards to include:

- The design, location, and site sizes for sites in parks and camps;
- Sanitary standards for permitting and the operation of parks and camps;
- Occupancy standards for transient rentals in recreational vehicle parks and camps;
- Permitting of parks and camps as required by this chapter;
- Inspection of parks and camps to enforce compliance with this chapter;
- Permit requirements, including late fees and penalties for operating without a permit; and
- The maintenance of guest registers.

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; and
- Writs of distress.

The bill requires that local government actions, ordinances and resolutions be consistent with the department’s uniform standards, providing an exception for the authority of local governments to adopt and enforce local land use, building, firesafety, 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 maintains a mobile home park, lodging park, recreational vehicle park, or recreational camp who is going to construct a new park or camp, or change an existing park or camp that requires construction of new sanitary facilities or additional permitted sites to receive review and approval from the department prior to beginning construction or changes. The department shall identify by rule the procedures and items required to be submitted for review and approval. The terminology related to a permit and permitting requirements is modified to designate the permit as an *operating* permit. 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.

Section 5 amends s. 513.03, F.S., to add information that must be submitted in an application for an operating permit to include the number of buildings and sites set aside for group camping, including barracks, cabins, cottages, and tent spaces. The department shall issue the necessary approval or operating permit, after reviewing the application and conducting an inspection, that the park or camp is not a source of danger to the health of the general public, within the criteria established under this law.

Section 6 amends s. 513.045, F.S., to clarify language related to the fees imposed for the operating permit and authorizes the department to assess late fees if annual operating permit fees are not paid timely. Obsolete language is repealed inasmuch as rules have been adopted by the department.

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 this chapter. 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. (See comment under Related Issues.)

Section 7 amends s. 513.05, F.S., to authorize the department to adopt rules related to temporary events at unlicensed locations which may require a temporary operating permit. It also clarifies the department's authority to adopt rules related to reviewing plans that consolidate or expand space or capacity.

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 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., relating to posting or publishing site rates for a recreational vehicle park that rents by the day or week and the criminal penalties associated with this activity.

Section 12 creates s. 513.1115, F.S., to require the spacing of recreational vehicles to be maintained at the distances established at the time of the initial approval of the recreational vehicle park by the department and local government. In addition, this section requires setback distances from the exterior property boundary of a recreational vehicle park to be maintained in accordance with the setback distances established at the time of the initial approval by the department and the local government. The bill specifies that both of these sections do not limit the regulation of the uniform firesafety 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 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, shall 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. Permissible reasons 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. Additionally, an operator is not liable for damages to personal property left on the premises by a guest who has been removed from the park or arrested 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, 2010.

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 the 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 authorizes fees for the late payment of the annual operating permit fee but does not set the amount of the late fee.

B. Private Sector Impact:

The bill affects parks and camps that will be newly constructed or existing parks or camps that will be expanded; parks and camps that do not submit the required fees in a timely manner; and persons proposing temporary events.

C. Government Sector Impact:

The bill requires the department to adopt administrative rules. The department projects this will cost \$4,015 for staff and associated costs. These costs are minimal and can be absorbed with existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 6 of the bill amends s. 513.045, F.S., relating to fees. Two new provisions in s. 513.045(b)2. and 3., F.S., do not provide for fees or relate to fees. Instead, these subparagraphs authorize and require the submission of a plan for the department to review. If fees are not contemplated for the department's review, these two provisions should be moved to a section that is more applicable substantively.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health and Human Services Appropriations Committee on April 13, 2010:

Removes authority to regulate temporary events at unlicensed locations:

- In Section 2 the authority for the DOH to establish a temporary event permit is removed; and
- In Section 6 the authority for the DOH to establish a fee for the temporary event permit is removed.

CS/CS by Community Affairs Committee on February 16, 2010:

The bill clarifies that the department shall administer and enforce uniform laws under s. 513.012, F.S.

- Creating subsection (2) and (3) to provide uniform standards for recreational vehicle parks and camps.
- Requiring local government actions, ordinances and resolutions to be consistent with the department's uniform standards.
 - Providing an exception for local governments to adopt and enforce local land use, building, firesafety, and other regulations.
- Clarifying that new construction or certain changes to an existing park and camp are reviewed and approved by the department.

- Allowing the department to establish a fee of no more than \$1,000 for temporary operating permits for unlicensed temporary events.
- Clarifying that both separation distances between recreational vehicles and set back distances from the exterior property boundaries shall be the distances established at the time of initial approval by the department or local government.
- Requiring certain unclaimed titled property to be disposed in accordance with the requirements under ch. 715, F.S.

The bill does not provide state preemption language under s. 513.051, F.S.

CS by Health Regulation Committee on January 19, 2010:

Retains that part of the definition of a recreational vehicle that authorizes it to be tied-down or have other appendages without making it a permanent part of the recreational vehicle site;

- Requires the department to uniformly administer and enforce the applicable laws and rules throughout the state; and
- Eliminates additional fees for the department's review of plans for
 - a proposed park or camp,
 - constructing a new park or camp, or
 - additional spaces or renovating an existing park or camp.

B. Amendments:

None.