

Committee Substitute for House Bill No. 1065

An act relating to aircraft safety; providing a short title; creating s. 379.2293, F.S.; providing legislative findings and intent; exempting airport authorities and other entities from penalties, restrictions, or sanctions with respect to authorized actions taken to protect human life or aircraft from wildlife hazards; defining the term “authorized action taken for the purpose of protecting human life or aircraft safety from wildlife hazards”; providing that federal or state authorizations for such actions prevail over certain other regulations, permits, comprehensive plans, and laws; providing immunity from penalties with respect to authorized action for certain individuals; providing exceptions; providing an effective date.

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

Section 1. This act may be cited as the “Airline Safety and Wildlife Protection Act of Florida.”

Section 2. Section 379.2293, Florida Statutes, is created to read:

379.2293 Airport activities within the scope of a federally approved wildlife hazard management plan or a federal or state permit or other authorization for depredation or harassment.—

(1) The Legislature finds and declares that the ability of airports to manage wildlife hazards in a manner consistent with state and federal law is necessary to prevent jeopardy to human life or aircraft safety. It is the intent of the Legislature that actions taken by airports within the scope of authorizations to manage wildlife for such purposes not be subject to penalties, restrictions, liabilities, or sanctions and that such authorizations not be superseded by actions of other state or local agencies.

(2) An airport authority or other entity owning or operating an airport, as defined in s. 330.27(2), is not subject to any administrative or civil penalty, restriction, or other sanction with respect to any authorized action taken in a non-negligent manner for the purpose of protecting human life or aircraft safety from wildlife hazards.

(3)(a) For purposes of this section, an “authorized action taken for the purpose of protecting human life or aircraft safety from wildlife hazards” is an action authorized by or within the scope of any of the following:

1. The airport’s wildlife hazard management plan, as approved by the Federal Aviation Administration.

2. A depredation permit issued by the United States Fish and Wildlife Service.

3. A standing order of the United States Fish and Wildlife Service.

4. Rule 68A-9.010(4) or rule 68A-27.002, Florida Administrative Code, or a permit authorizing the harassment of wildlife issued by the Fish and Wildlife Conservation Commission.

(b) The term “authorized action taken for the purpose of protecting human life or aircraft safety from wildlife hazards” does not include:

1. Dredging or filling of wetlands or other surface waters or alteration of a stormwater management system, unless authorized by and performed in compliance with a permit issued under part IV of chapter 373 or an emergency order under chapter 373. However, such a permit or emergency order is not required prior to the activity when the airport authority or other entity described in subsection (2) determines that an emergency condition exists which requires immediate action to protect human life and the airport authority or other entity described in subsection (2) obtains the appropriate permit under part IV of chapter 373 within one year after conducting the emergency action.

2. Trespass on lands or unauthorized interference with an easement not owned or leased by the airport authority or other entity referred to in subsection (2).

(4) If an authorized action taken for the purpose of protecting human life or aircraft safety from wildlife hazards as defined in subsection (3) conflicts or appears to conflict with a development permit, land development regulation, local comprehensive plan, or other environmental or land-use law, rule, restriction, or requirement, the authorization described in subsection (3) shall prevail.

(5) In addition to applying to the airport authority or other owner or operator of the airport, the immunities conferred by this section also apply to any officer, employee, contractor, or employee of a contractor of the airport authority or other owner or operator of the airport, or any member of the airport’s governing body, to the extent that the actions of the officer, employee, contractor, contractor’s employee, or member are authorized by or within the scope of one or more of the legal authorities described in subsection (3).

(6) Nothing in this section is intended to provide immunity from liability with respect to intentional or negligent torts, and nothing in this section is intended to affect the waiver of sovereign immunity under s. 768.28.

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

Approved by the Governor June 11, 2009.

Filed in Office Secretary of State June 11, 2009.