

1 A bill to be entitled
 2 An act relating to commercial parasailing; providing a
 3 short title; amending s. 327.02, F.S.; defining terms;
 4 creating s. 327.375, F.S.; requiring the owner of a
 5 vessel engaged in commercial parasailing to obtain and
 6 carry an insurance policy; providing minimum coverage
 7 requirements for the insurance policy; providing
 8 requirements for proof of insurance; specifying the
 9 insurance information that must be provided to each
 10 rider; prohibiting commercial parasailing unless
 11 certain conditions are met; providing for the launch
 12 from and recovery of riders to a towing vessel;
 13 authorizing up to three persons to be tethered to the
 14 towing vessel; prohibiting commercial parasailing in
 15 certain areas, during certain hours, and under certain
 16 weather conditions; requiring that a weather log be
 17 maintained and made available for inspection;
 18 requiring a safety briefing for passengers and
 19 parasail riders; providing a penalty; amending ss.
 20 320.08, 327.391, 328.17, 342.07, 713.78, and 715.07,
 21 F.S.; conforming cross-references to changes made by
 22 the act; providing an effective date.

23
 24 Be It Enacted by the Legislature of the State of Florida:

25
 26 Section 1. This act may be cited as the "White-Miskell
 27 Act."

28 Section 2. Section 327.02, Florida Statutes, is amended to

29 read:

30 327.02 Definitions of terms used in this chapter and in
 31 chapter 328.—As used in this chapter and in chapter 328, unless
 32 the context clearly requires a different meaning, the term:

33 (1) "Airboat" means a vessel that is primarily designed
 34 for use in shallow waters and powered by an internal combustion
 35 engine with an airplane-type propeller mounted above the stern
 36 and used to push air across a set of rudders.

37 (2) "Alien" means a person who is not a citizen of the
 38 United States.

39 (3) "Boating accident" means a collision, accident, or
 40 casualty involving a vessel in or upon, or entering into or
 41 exiting from, the water, including capsizing, collision with
 42 another vessel or object, sinking, personal injury, death,
 43 disappearance of any person from on board under circumstances
 44 that ~~which~~ indicate the possibility of death or injury, or
 45 property damage to any vessel or dock.

46 (4) "Canoe" means a light, narrow vessel with curved sides
 47 and with both ends pointed. A canoe-like vessel with a transom
 48 may not be excluded from the definition of a canoe if the width
 49 of its transom is less than 45 percent of the width of its beam
 50 or it has been designated as a canoe by the United States Coast
 51 Guard.

52 (5) (a) "Commercial parasailing" means providing or
 53 offering to provide, for consideration, any activity involving
 54 the towing of a person by a motorboat when:

- 55 1. One or more persons are tethered to the towing vessel;
 56 2. The person or persons ascend above the water; and

57 | 3. The person or persons remain suspended under a canopy
 58 | above the water while the vessel is underway.

59 | (b) The term does not include ultralight glider towing
 60 | conducted under rules of the Federal Aviation Administration
 61 | governing ultralight air vehicles as defined in 14 C.F.R. part
 62 | 103.

63 | (6)~~(5)~~ "Commercial vessel" means:

64 | (a) Any vessel primarily engaged in the taking or landing
 65 | of saltwater fish or saltwater products or freshwater fish or
 66 | freshwater products, or any vessel licensed pursuant to s.
 67 | 379.361 from which commercial quantities of saltwater products
 68 | are harvested, from within and without the waters of this state
 69 | for sale either to the consumer, retail dealer, or wholesale
 70 | dealer.

71 | (b) Any other vessel, except a recreational vessel as
 72 | defined in this section.

73 | (7)~~(6)~~ "Commission" means the Fish and Wildlife
 74 | Conservation Commission.

75 | (8)~~(7)~~ "Dealer" means any person authorized by the
 76 | Department of Revenue to buy, sell, resell, or otherwise
 77 | distribute vessels. Such person shall have a valid sales tax
 78 | certificate of registration issued by the Department of Revenue
 79 | and a valid commercial or occupational license required by any
 80 | county, municipality, or political subdivision of the state in
 81 | which the person operates.

82 | (9)~~(8)~~ "Division" means the Division of Law Enforcement of
 83 | the Fish and Wildlife Conservation Commission.

84 | (10)~~(9)~~ "Documented vessel" means a vessel for which a

85 | valid certificate of documentation is outstanding pursuant to 46
 86 | C.F.R. part 67.

87 | (11)~~(10)~~ "Floating structure" means a floating entity,
 88 | with or without accommodations built thereon, which is not
 89 | primarily used as a means of transportation on water but which
 90 | serves purposes or provides services typically associated with a
 91 | structure or other improvement to real property. The term
 92 | "floating structure" includes, but is not limited to, each
 93 | entity used as a residence, place of business or office with
 94 | public access, hotel or motel, restaurant or lounge, clubhouse,
 95 | meeting facility, storage or parking facility, mining platform,
 96 | dredge, dragline, or similar facility or entity represented as
 97 | such. Floating structures are expressly excluded from the
 98 | definition of the term "vessel" provided in this section.
 99 | Incidental movement upon water or resting partially or entirely
 100 | on the bottom does ~~shall~~ not, in and of itself, preclude an
 101 | entity from classification as a floating structure.

102 | (12)~~(11)~~ "Florida Intracoastal Waterway" means the
 103 | Atlantic Intracoastal Waterway, the Georgia state line north of
 104 | Fernandina to Miami; the Port Canaveral lock and canal to the
 105 | Atlantic Intracoastal Waterway; the Atlantic Intracoastal
 106 | Waterway, Miami to Key West; the Okeechobee Waterway, Stuart to
 107 | Fort Myers; the St. Johns River, Jacksonville to Sanford; the
 108 | Gulf Intracoastal Waterway, Anclote to Fort Myers; the Gulf
 109 | Intracoastal Waterway, Carrabelle to Tampa Bay; Carrabelle to
 110 | Anclote open bay section (using Gulf of Mexico); the Gulf
 111 | Intracoastal Waterway, Carrabelle to the Alabama state line west
 112 | of Pensacola; and the Apalachicola, Chattahoochee, and Flint

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113 Rivers in Florida.

114 (13)~~(12)~~ "Homemade vessel" means any vessel built after
115 October 31, 1972, for which a federal hull identification number
116 is not required to be assigned by the manufacturer pursuant to
117 federal law, or any vessel constructed or assembled prior to
118 November 1, 1972, by other than a licensed manufacturer for his
119 or her own use or the use of a specific person. A vessel
120 assembled from a manufacturer's kit or constructed from an
121 unfinished manufactured hull shall be considered to be a
122 homemade vessel if such a vessel is not required to have a hull
123 identification number assigned by the United States Coast Guard.
124 A rebuilt or reconstructed vessel shall in no event be construed
125 to be a homemade vessel.

126 (14)~~(13)~~ "Houseboat" means any vessel that ~~which~~ is used
127 primarily as a residence for a minimum of 21 days during any 30-
128 day period, in a county of this state, and this residential use
129 of the vessel is to the preclusion of the use of the vessel as a
130 means of transportation.

131 (15)~~(14)~~ "Length" means the measurement from end to end
132 over the deck parallel to the centerline excluding sheer.

133 (16)~~(15)~~ "Lien" means a security interest that ~~which~~ is
134 reserved or created by a written agreement recorded with the
135 Department of Highway Safety and Motor Vehicles pursuant to s.
136 328.15 and that ~~which~~ secures payment or performance of an
137 obligation and is generally valid against third parties.

138 (17)~~(16)~~ "Lienholder" means a person holding a security
139 interest in a vessel, which interest is recorded with the
140 Department of Highway Safety and Motor Vehicles pursuant to s.

141 328.15.

142 (18)~~(17)~~ "Live-aboard vessel" means:

143 (a) Any vessel used solely as a residence and not for
144 navigation;

145 (b) Any vessel represented as a place of business or a
146 professional or other commercial enterprise; or

147 (c) Any vessel for which a declaration of domicile has
148 been filed pursuant to s. 222.17.

149

150 A commercial fishing boat is expressly excluded from the term
151 "live-aboard vessel."

152 (19)~~(18)~~ "Livery vessel" means any vessel leased, rented,
153 or chartered to another for consideration.

154 (20)~~(19)~~ "Manufactured vessel" means any vessel built
155 after October 31, 1972, for which a federal hull identification
156 number is required pursuant to federal law, or any vessel
157 constructed or assembled prior to November 1, 1972, by a duly
158 licensed manufacturer.

159 (21)~~(20)~~ "Marina" means a licensed commercial facility
160 that ~~which~~ provides secured public moorings or dry storage for
161 vessels on a leased basis. A commercial establishment authorized
162 by a licensed vessel manufacturer as a dealership shall be
163 considered a marina for nonjudicial sale purposes.

164 (22)~~(21)~~ "Marine sanitation device" means any equipment
165 other than a toilet, for installation on board a vessel, which
166 is designed to receive, retain, treat, or discharge sewage, and
167 any process to treat such sewage. Marine sanitation device Types
168 I, II, and III shall be defined as provided in 33 C.F.R. part

169 | 159.

170 | (23)~~(22)~~ "Marker" means any channel mark or other aid to
 171 | navigation, information or regulatory mark, isolated danger
 172 | mark, safe water mark, special mark, inland waters obstruction
 173 | mark, or mooring buoy in, on, or over the waters of the state or
 174 | the shores thereof, and includes, but is not limited to, a sign,
 175 | beacon, buoy, or light.

176 | (24)~~(23)~~ "Motorboat" means any vessel equipped with
 177 | machinery for propulsion, irrespective of whether the propulsion
 178 | machinery is in actual operation.

179 | (25)~~(24)~~ "Muffler" means an automotive-style sound-
 180 | suppression device or system designed to effectively abate the
 181 | sound of exhaust gases emitted from an internal combustion
 182 | engine and prevent excessive sound when installed on such an
 183 | engine.

184 | (26)~~(25)~~ "Navigation rules" means the International
 185 | Navigational Rules Act of 1977, 33 U.S.C. appendix following s.
 186 | 1602, as amended, including the annexes thereto, for vessels on
 187 | waters outside ~~of~~ established navigational lines of demarcation
 188 | as specified in 33 C.F.R. part 80 or the Inland Navigational
 189 | Rules Act of 1980, 33 U.S.C. ss. 2001 et seq., as amended,
 190 | including the annexes thereto, for vessels on all waters not
 191 | outside ~~of~~ such lines of demarcation.

192 | (27)~~(26)~~ "Nonresident" means a citizen of the United
 193 | States who has not established residence in this state and has
 194 | not continuously resided in this state for 1 year and in one
 195 | county for the 6 months immediately preceding the initiation of
 196 | a vessel titling or registration action.

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197 | ~~(28)-(27)~~ "Operate" means to be in charge of or in command
198 | of or in actual physical control of a vessel upon the waters of
199 | this state, or to exercise control over or to have
200 | responsibility for a vessel's navigation or safety while the
201 | vessel is underway upon the waters of this state, or to control
202 | or steer a vessel being towed by another vessel upon the waters
203 | of the state.

204 | ~~(29)-(28)~~ "Owner" means a person, other than a lienholder,
205 | having the property in or title to a vessel. The term includes a
206 | person entitled to the use or possession of a vessel subject to
207 | an interest in another person, reserved or created by agreement
208 | and securing payment of performance of an obligation, but the
209 | term excludes a lessee under a lease not intended as security.

210 | (30) "Passenger support system" means a device used to
211 | tether, connect, or otherwise suspend a person under a canopy.

212 | ~~(31)-(29)~~ "Person" means an individual, partnership, firm,
213 | corporation, association, or other entity.

214 | ~~(32)-(30)~~ "Personal watercraft" means a vessel less than 16
215 | feet in length which uses an inboard motor powering a water jet
216 | pump, as its primary source of motive power and which is
217 | designed to be operated by a person sitting, standing, or
218 | kneeling on the vessel, rather than in the conventional manner
219 | of sitting or standing inside the vessel.

220 | ~~(33)-(31)~~ "Portable toilet" means a device consisting of a
221 | lid, seat, containment vessel, and support structure which ~~that~~
222 | is specifically designed to receive, retain, and discharge human
223 | waste and which ~~that~~ is capable of being removed from a vessel
224 | by hand.

225 (34)~~(32)~~ "Prohibited activity" means such activity as will
 226 impede or disturb navigation or creates a safety hazard on
 227 waterways of this state.

228 (35)~~(33)~~ "Racing shell," "rowing scull," or "racing kayak"
 229 means a manually propelled vessel that ~~which~~ is recognized by
 230 national or international racing associations for use in
 231 competitive racing and in which all occupants, with the
 232 exception of a coxswain, if one is provided, row, scull, or
 233 paddle, and that ~~which~~ is not designed to carry and does not
 234 carry any equipment not solely for competitive racing.

235 (36)~~(34)~~ "Recreational vessel" means any vessel:

236 (a) Manufactured and used primarily for noncommercial
 237 purposes; or

238 (b) Leased, rented, or chartered to a person for the
 239 person's noncommercial use.

240 (37)~~(35)~~ "Registration" means a state operating license on
 241 a vessel which is issued with an identifying number, an annual
 242 certificate of registration, and a decal designating the year
 243 for which a registration fee is paid.

244 (38)~~(36)~~ "Resident" means a citizen of the United States
 245 who has established residence in this state and has continuously
 246 resided in this state for 1 year and in one county for the 6
 247 months immediately preceding the initiation of a vessel titling
 248 or registration action.

249 (39)~~(37)~~ "Sailboat" means any vessel whose sole source of
 250 propulsion is the wind.

251 (40) "Sustained wind speed" means a wind speed determined
 252 by averaging the observed wind speed rounded to the nearest

253 | whole knot over a 2-minute period.

254 | ~~(41)-(38)~~ "Unclaimed vessel" means any undocumented vessel,
 255 | including its machinery, rigging, and accessories, which is in
 256 | the physical possession of any marina, garage, or repair shop
 257 | for repairs, improvements, or other work with the knowledge of
 258 | the vessel owner and for which the costs of such services have
 259 | been unpaid for a period in excess of 90 days following ~~from~~ the
 260 | date written notice of the completed work is given by the
 261 | marina, garage, or repair shop to the vessel owner.

262 | ~~(42)-(39)~~ "Vessel" is synonymous with boat as referenced in
 263 | s. 1(b), Art. VII of the State Constitution and includes every
 264 | description of watercraft, barge, and airboat, other than a
 265 | seaplane on the water, used or capable of being used as a means
 266 | of transportation on water.

267 | ~~(43)-(40)~~ "Waters of this state" means any navigable waters
 268 | of the United States within the territorial limits of this
 269 | state, ~~and~~ the marginal sea adjacent to this state and the high
 270 | seas when navigated as a part of a journey or ride to or from
 271 | the shore of this state, and all the inland lakes, rivers, and
 272 | canals under the jurisdiction of this state.

273 | Section 3. Section 327.375, Florida Statutes, is created
 274 | to read:

275 | 327.375 Commercial parasailing.-

276 | (1) The owner of a vessel engaged in commercial
 277 | parasailing may not offer or provide for consideration any
 278 | parasailing activity unless the owner first obtains and carries
 279 | in full force and effect an insurance policy, from an insurance
 280 | carrier licensed in this state or approved by the Office of

281 Insurance Regulation, insuring against any accident, loss,
282 injury, property damage, death, or other casualty caused by or
283 resulting from any commercial parasailing activity. The
284 insurance policy must provide coverage of at least \$1 million
285 per person and \$2 million per event. Proof of insurance must be
286 available for inspection at the location where commercial
287 parasailing is offered or provided for consideration, and each
288 customer who requests it shall be provided with the insurance
289 carrier's name and address and the insurance policy number.

290 (2) (a) Commercial parasailing is prohibited unless:

291 1. The person operating the vessel engaged in commercial
292 parasailing has a current and valid license issued by the United
293 States Coast Guard authorizing that person to carry passengers
294 for hire. The license must be appropriate for the number of
295 passengers carried and the displacement of the vessel. The
296 license must be carried on the vessel and be available for
297 inspection while engaging in commercial parasailing activities.

298 2. An observer 18 years of age or older is present in the
299 vessel at all times to monitor the progress of any tethered
300 parasail rider and parasail equipment. The observer may not be a
301 customer, must be attentive to the parasail rider or riders and
302 equipment, and may not have any other duties while the rider or
303 riders are in the water or suspended above the water.

304 3. The vessel's passenger support system, including, but
305 not limited to, ropes and harnesses used to secure a parasail
306 rider, has been inspected by the division pursuant to its
307 enforcement authority provided in s. 327.70.

308 4. The towline is rated for a tensile strength exceeding

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309 4,800 pounds, is braided, and is a low-stretch type not
310 exceeding 500 feet in length.

311 5. All riders wear an appropriate floatation device
312 approved by the United States Coast Guard, other than an
313 inflatable device, which is in serviceable condition and of the
314 proper size.

315 6. The vessel is in full compliance with all requirements
316 of the United States Coast Guard governing crewing and equipment
317 carriage for passenger-carrying vessels as specified in the Code
318 of Federal Regulations or as otherwise specified by the United
319 States Coast Guard in the vessel's certificate of inspection.

320 7. The vessel is equipped with a functional VHF marine
321 transceiver and a separate electronic device capable of access
322 to National Weather Service forecasts and current weather
323 conditions.

324 (b) A person operating a vessel engaged in commercial
325 parasailing shall launch riders only from and recover riders
326 only to the vessel and no more than three persons may be
327 tethered to the towing vessel and ascend above the water at any
328 time.

329 (c) A person may not operate a vessel towing a commercial
330 parasailing rider on any coastal waters of the state less than
331 1,800 feet from the shore. This restriction applies to the
332 entire commercial parasailing apparatus, including the vessel,
333 towline, and rider.

334 (d) A person may not operate a vessel towing a commercial
335 parasailing rider so that the vessel, towline, or rider comes
336 within 400 feet of:

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337 | 1. An anchored vessel;
338 | 2. A person in the water; or
339 | 3. A structure, bridge, power line, wharf, pier, dock,
340 | platform, piling, marker, or other similar fixed object.

341 | (e) Commercial parasailing is prohibited within a distance
342 | of 100 feet of the marked channel of the Florida Intracoastal
343 | Waterway and during any time between the hours of one-half hour
344 | after sunset to one-half hour before sunrise.

345 | (f) Commercial parasailing is prohibited when the current
346 | conditions or those forecasted by the National Weather Service
347 | include a sustained wind speed of more than 20 miles per hour in
348 | the area of operation, rain or heavy fog that results in reduced
349 | visibility of less than 0.5 miles, or a known lightning storm
350 | within 7 miles of the parasailing area.

351 | (g) The captain of the vessel engaged in commercial
352 | parasailing shall use all available means to determine
353 | prevailing and forecasted weather conditions and record this
354 | information in a weather log each time passengers are to be
355 | taken out on the water. The weather log must be available for
356 | inspection at all times at the place of business.

357 | (h) Each passenger and parasail rider must be given a
358 | safety briefing before embarking or before the commercial
359 | parasailing activity commences. This briefing must include a
360 | description of the equipment, the parasailing activity, and the
361 | inherent risks and instruction on how to safely evacuate from
362 | the passenger support system during a water landing.

363 | (3) A person or operator who violates any provision of
364 | this section commits a misdemeanor of the second degree,

365 punishable as provided in s. 775.082 or s. 775.083.

366 Section 4. Paragraph (d) of subsection (5) of section
367 320.08, Florida Statutes, is amended to read:

368 320.08 License taxes.—Except as otherwise provided herein,
369 there are hereby levied and imposed annual license taxes for the
370 operation of motor vehicles, mopeds, motorized bicycles as
371 defined in s. 316.003(2), tri-vehicles as defined in s. 316.003,
372 and mobile homes, as defined in s. 320.01, which shall be paid
373 to and collected by the department or its agent upon the
374 registration or renewal of registration of the following:

375 (5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE WEIGHT;
376 SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.—

377 (d) A wrecker, as defined in s. 320.01(40), which is used
378 to tow a vessel as defined in s. 327.02(42) ~~s. 327.02(39)~~, a
379 disabled, abandoned, stolen-recovered, or impounded motor
380 vehicle as defined in s. 320.01(38), or a replacement motor
381 vehicle as defined in s. 320.01(39): \$41 flat, of which \$11
382 shall be deposited into the General Revenue Fund.

383 Section 5. Subsection (1) of section 327.391, Florida
384 Statutes, is amended to read:

385 327.391 Airboats regulated.—

386 (1) The exhaust of every internal combustion engine used
387 on any airboat operated on the waters of this state shall be
388 provided with an automotive-style factory muffler, underwater
389 exhaust, or other manufactured device capable of adequately
390 muffling the sound of the exhaust of the engine as described in
391 s. 327.02(25) ~~s. 327.02(24)~~. The use of cutouts or flex pipe as
392 the sole source of muffling is prohibited, except as provided in

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393 subsection (4). Any person who violates this subsection commits
394 a noncriminal infraction punishable as provided in s. 327.73(1).

395 Section 6. Subsection (4) of section 328.17, Florida
396 Statutes, is amended to read:

397 328.17 Nonjudicial sale of vessels.—

398 (4) A marina, as defined in s. 327.02(21) ~~s. 327.02(20)~~,
399 shall have:

400 (a) A possessory lien upon any vessel for storage fees,
401 dockage fees, repairs, improvements, or other work-related
402 storage charges, and for expenses necessary for preservation of
403 the vessel or expenses reasonably incurred in the sale or other
404 disposition of the vessel. The possessory lien shall attach as
405 of the date the vessel is brought to the marina or as of the
406 date the vessel first occupies rental space at the marina
407 facility.

408 (b) A possessory lien upon any vessel in a wrecked,
409 junked, or substantially dismantled condition, which has been
410 left abandoned at a marina, for expenses reasonably incurred in
411 the removal and disposal of the vessel. The possessory lien
412 shall attach as of the date the vessel arrives at the marina or
413 as of the date the vessel first occupies rental space at the
414 marina facility. If the funds recovered from the sale of the
415 vessel, or from the scrap or salvage value of the vessel, are
416 insufficient to cover the expenses reasonably incurred by the
417 marina in removing and disposing of the vessel, all costs in
418 excess of recovery shall be recoverable against the owner of the
419 vessel. For a vessel damaged as a result of a named storm, the
420 provisions of this paragraph shall be suspended for 60 days

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421 following the date the vessel is damaged in the named storm. The
 422 operation of the provisions specified in this paragraph run
 423 concurrently with, and do not extend, the 60-day notice periods
 424 provided in subsections (5) and (7).

425 Section 7. Subsection (2) of section 342.07, Florida
 426 Statutes, is amended to read:

427 342.07 Recreational and commercial working waterfronts;
 428 legislative findings; definitions.—

429 (2) As used in this section, the term "recreational and
 430 commercial working waterfront" means a parcel or parcels of real
 431 property which ~~that~~ provide access for water-dependent
 432 commercial activities, including hotels and motels as defined in
 433 s. 509.242(1), or provide access for the public to the navigable
 434 waters of the state. Recreational and commercial working
 435 waterfronts require direct access to or a location on, over, or
 436 adjacent to a navigable body of water. The term includes water-
 437 dependent facilities that are open to the public and offer
 438 public access by vessels to the waters of the state or that are
 439 support facilities for recreational, commercial, research, or
 440 governmental vessels. These facilities include public lodging
 441 establishments, docks, wharfs, lifts, wet and dry marinas, boat
 442 ramps, boat hauling and repair facilities, commercial fishing
 443 facilities, boat construction facilities, and other support
 444 structures over the water. As used in this section, the term
 445 "vessel" has the same meaning as in s. 327.02(42) ~~s. 327.02(39)~~.
 446 Seaports are excluded from the definition.

447 Section 8. Paragraph (b) of subsection (1) of section
 448 713.78, Florida Statutes, is amended to read:

449 713.78 Liens for recovering, towing, or storing vehicles
450 and vessels.—

451 (1) For the purposes of this section, the term:

452 (b) "Vessel" means every description of watercraft, barge,
453 and airboat used or capable of being used as a means of
454 transportation on water, other than a seaplane or a "documented
455 vessel" as defined in s. 327.02(10) ~~s. 327.02(9)~~.

456 Section 9. Paragraph (b) of subsection (1) of section
457 715.07, Florida Statutes, is amended to read:

458 715.07 Vehicles or vessels parked on private property;
459 towing.—

460 (1) As used in this section, the term:

461 (b) "Vessel" means every description of watercraft, barge,
462 and airboat used or capable of being used as a means of
463 transportation on water, other than a seaplane or a "documented
464 vessel" as defined in s. 327.02(10) ~~s. 327.02(9)~~.

465 Section 10. This act shall take effect July 1, 2013.