

By the Committee on Regulated Industries; and Senators Sachs and Margolis

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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 operator of a
5 vessel engaged in commercial parasailing to ensure
6 that the requirements of s. 327.37, F.S., are met;
7 requiring the owner of a vessel engaged in commercial
8 parasailing to obtain and carry an insurance policy;
9 providing minimum coverage requirements for the
10 insurance policy; providing requirements for proof of
11 insurance; specifying the insurance information that
12 must be provided to each rider; prohibiting commercial
13 parasailing unless certain conditions are met; and
14 under certain weather conditions; requiring that a
15 weather log be maintained and made available for
16 inspection; providing a penalty; amending ss. 320.08,
17 327.391, 328.17, 342.07, 713.78, and 715.07, F.S.;
18 conforming cross-references to changes made by the
19 act; providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

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23 Section 1. This act may be cited as the "White-Miskell
24 Act."

25 Section 2. Section 327.02, Florida Statutes, is amended to
26 read:

27 327.02 Definitions of terms used in this chapter and in
28 chapter 328.—As used in this chapter and in chapter 328, unless
29 the context clearly requires a different meaning, the term:

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

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

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

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

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

- 52 1. One or more persons are tethered to the towing vessel;
53 2. The person or persons ascend above the water; and
54 3. The person or persons remain suspended under a canopy,
55 chute, or parasail above the water while the vessel is underway.

56 (b) The term does not include ultralight glider towing
57 conducted under rules of the Federal Aviation Administration
58 governing ultralight air vehicles as defined in 14 C.F.R. part

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59 103.

60 (6)~~(5)~~ "Commercial vessel" means:

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

68 (b) Any other vessel, except a recreational vessel as
69 defined in this section.

70 (7)~~(6)~~ "Commission" means the Fish and Wildlife
71 Conservation Commission.

72 (8)~~(7)~~ "Dealer" means any person authorized by the
73 Department of Revenue to buy, sell, resell, or otherwise
74 distribute vessels. Such person shall have a valid sales tax
75 certificate of registration issued by the Department of Revenue
76 and a valid commercial or occupational license required by any
77 county, municipality, or political subdivision of the state in
78 which the person operates.

79 (9)~~(8)~~ "Division" means the Division of Law Enforcement of
80 the Fish and Wildlife Conservation Commission.

81 (10)~~(9)~~ "Documented vessel" means a vessel for which a
82 valid certificate of documentation is outstanding pursuant to 46
83 C.F.R. part 67.

84 (11)~~(10)~~ "Floating structure" means a floating entity, with
85 or without accommodations built thereon, which is not primarily
86 used as a means of transportation on water but which serves
87 purposes or provides services typically associated with a

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88 structure or other improvement to real property. The term
89 "floating structure" includes, but is not limited to, each
90 entity used as a residence, place of business or office with
91 public access, hotel or motel, restaurant or lounge, clubhouse,
92 meeting facility, storage or parking facility, mining platform,
93 dredge, dragline, or similar facility or entity represented as
94 such. Floating structures are expressly excluded from the
95 definition of the term "vessel" provided in this section.
96 Incidental movement upon water or resting partially or entirely
97 on the bottom does ~~shall~~ not, in and of itself, preclude an
98 entity from classification as a floating structure.

99 (12) ~~(11)~~ "Florida Intracoastal Waterway" means the Atlantic
100 Intracoastal Waterway, the Georgia state line north of
101 Fernandina to Miami; the Port Canaveral lock and canal to the
102 Atlantic Intracoastal Waterway; the Atlantic Intracoastal
103 Waterway, Miami to Key West; the Okeechobee Waterway, Stuart to
104 Fort Myers; the St. Johns River, Jacksonville to Sanford; the
105 Gulf Intracoastal Waterway, Anclote to Fort Myers; the Gulf
106 Intracoastal Waterway, Carrabelle to Tampa Bay; Carrabelle to
107 Anclote open bay section (using Gulf of Mexico); the Gulf
108 Intracoastal Waterway, Carrabelle to the Alabama state line west
109 of Pensacola; and the Apalachicola, Chattahoochee, and Flint
110 Rivers in Florida.

111 (13) ~~(12)~~ "Homemade vessel" means any vessel built after
112 October 31, 1972, for which a federal hull identification number
113 is not required to be assigned by the manufacturer pursuant to
114 federal law, or any vessel constructed or assembled prior to
115 November 1, 1972, by other than a licensed manufacturer for his
116 or her own use or the use of a specific person. A vessel

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117 assembled from a manufacturer's kit or constructed from an
118 unfinished manufactured hull shall be considered to be a
119 homemade vessel if such a vessel is not required to have a hull
120 identification number assigned by the United States Coast Guard.
121 A rebuilt or reconstructed vessel shall in no event be construed
122 to be a homemade vessel.

123 (14)~~(13)~~ "Houseboat" means any vessel that ~~which~~ is used
124 primarily as a residence for a minimum of 21 days during any 30-
125 day period, in a county of this state, and this residential use
126 of the vessel is to the preclusion of the use of the vessel as a
127 means of transportation.

128 (15)~~(14)~~ "Length" means the measurement from end to end
129 over the deck parallel to the centerline excluding sheer.

130 (16)~~(15)~~ "Lien" means a security interest that ~~which~~ is
131 reserved or created by a written agreement recorded with the
132 Department of Highway Safety and Motor Vehicles pursuant to s.
133 328.15 and that ~~which~~ secures payment or performance of an
134 obligation and is generally valid against third parties.

135 (17)~~(16)~~ "Lienholder" means a person holding a security
136 interest in a vessel, which interest is recorded with the
137 Department of Highway Safety and Motor Vehicles pursuant to s.
138 328.15.

139 (18)~~(17)~~ "Live-aboard vessel" means:

140 (a) Any vessel used solely as a residence and not for
141 navigation;

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

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

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

149 (19)~~(18)~~ "Livery vessel" means any vessel leased, rented,
150 or chartered to another for consideration.

151 (20)~~(19)~~ "Manufactured vessel" means any vessel built after
152 October 31, 1972, for which a federal hull identification number
153 is required pursuant to federal law, or any vessel constructed
154 or assembled prior to November 1, 1972, by a duly licensed
155 manufacturer.

156 (21)~~(20)~~ "Marina" means a licensed commercial facility that
157 ~~which~~ provides secured public moorings or dry storage for
158 vessels on a leased basis. A commercial establishment authorized
159 by a licensed vessel manufacturer as a dealership shall be
160 considered a marina for nonjudicial sale purposes.

161 (22)~~(21)~~ "Marine sanitation device" means any equipment
162 other than a toilet, for installation on board a vessel, which
163 is designed to receive, retain, treat, or discharge sewage, and
164 any process to treat such sewage. Marine sanitation device Types
165 I, II, and III shall be defined as provided in 33 C.F.R. part
166 159.

167 (23)~~(22)~~ "Marker" means any channel mark or other aid to
168 navigation, information or regulatory mark, isolated danger
169 mark, safe water mark, special mark, inland waters obstruction
170 mark, or mooring buoy in, on, or over the waters of the state or
171 the shores thereof, and includes, but is not limited to, a sign,
172 beacon, buoy, or light.

173 (24)~~(23)~~ "Motorboat" means any vessel equipped with
174 machinery for propulsion, irrespective of whether the propulsion

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175 machinery is in actual operation.

176 (25)~~(24)~~ "Muffler" means an automotive-style sound-
177 suppression device or system designed to effectively abate the
178 sound of exhaust gases emitted from an internal combustion
179 engine and prevent excessive sound when installed on such an
180 engine.

181 (26)~~(25)~~ "Navigation rules" means the International
182 Navigational Rules Act of 1977, 33 U.S.C. appendix following s.
183 1602, as amended, including the annexes thereto, for vessels on
184 waters outside ~~of~~ established navigational lines of demarcation
185 as specified in 33 C.F.R. part 80 or the Inland Navigational
186 Rules Act of 1980, 33 U.S.C. ss. 2001 et seq., as amended,
187 including the annexes thereto, for vessels on all waters not
188 outside ~~of~~ such lines of demarcation.

189 (27)~~(26)~~ "Nonresident" means a citizen of the United States
190 who has not established residence in this state and has not
191 continuously resided in this state for 1 year and in one county
192 for the 6 months immediately preceding the initiation of a
193 vessel titling or registration action.

194 (28)~~(27)~~ "Operate" means to be in charge of or in command
195 of or in actual physical control of a vessel upon the waters of
196 this state, or to exercise control over or to have
197 responsibility for a vessel's navigation or safety while the
198 vessel is underway upon the waters of this state, or to control
199 or steer a vessel being towed by another vessel upon the waters
200 of the state.

201 (29)~~(28)~~ "Owner" means a person, other than a lienholder,
202 having the property in or title to a vessel. The term includes a
203 person entitled to the use or possession of a vessel subject to

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204 an interest in another person, reserved or created by agreement
205 and securing payment of performance of an obligation, but the
206 term excludes a lessee under a lease not intended as security.

207 (30)~~(29)~~ "Person" means an individual, partnership, firm,
208 corporation, association, or other entity.

209 (31)~~(30)~~ "Personal watercraft" means a vessel less than 16
210 feet in length which uses an inboard motor powering a water jet
211 pump, as its primary source of motive power and which is
212 designed to be operated by a person sitting, standing, or
213 kneeling on the vessel, rather than in the conventional manner
214 of sitting or standing inside the vessel.

215 (32)~~(31)~~ "Portable toilet" means a device consisting of a
216 lid, seat, containment vessel, and support structure which ~~that~~
217 is specifically designed to receive, retain, and discharge human
218 waste and which ~~that~~ is capable of being removed from a vessel
219 by hand.

220 (33)~~(32)~~ "Prohibited activity" means such activity as will
221 impede or disturb navigation or creates a safety hazard on
222 waterways of this state.

223 (34)~~(33)~~ "Racing shell," "rowing scull," or "racing kayak"
224 means a manually propelled vessel that ~~which~~ is recognized by
225 national or international racing associations for use in
226 competitive racing and in which all occupants, with the
227 exception of a coxswain, if one is provided, row, scull, or
228 paddle, and that ~~which~~ is not designed to carry and does not
229 carry any equipment not solely for competitive racing.

230 (35)~~(34)~~ "Recreational vessel" means any vessel:

231 (a) Manufactured and used primarily for noncommercial
232 purposes; or

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

235 (36)~~(35)~~ "Registration" means a state operating license on
236 a vessel which is issued with an identifying number, an annual
237 certificate of registration, and a decal designating the year
238 for which a registration fee is paid.

239 (37)~~(36)~~ "Resident" means a citizen of the United States
240 who has established residence in this state and has continuously
241 resided in this state for 1 year and in one county for the 6
242 months immediately preceding the initiation of a vessel titling
243 or registration action.

244 (38)~~(37)~~ "Sailboat" means any vessel whose sole source of
245 propulsion is the wind.

246 (39) "Sustained wind speed" means a wind speed determined
247 by averaging the observed wind speed rounded up to the nearest
248 mile per hour over a 2-minute period.

249 (40)~~(38)~~ "Unclaimed vessel" means any undocumented vessel,
250 including its machinery, rigging, and accessories, which is in
251 the physical possession of any marina, garage, or repair shop
252 for repairs, improvements, or other work with the knowledge of
253 the vessel owner and for which the costs of such services have
254 been unpaid for a period in excess of 90 days following ~~from~~ the
255 date written notice of the completed work is given by the
256 marina, garage, or repair shop to the vessel owner.

257 (41)~~(39)~~ "Vessel" is synonymous with boat as referenced in
258 s. 1(b), Art. VII of the State Constitution and includes every
259 description of watercraft, barge, and airboat, other than a
260 seaplane on the water, used or capable of being used as a means
261 of transportation on water.

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262 ~~(42)~~~~(40)~~ "Waters of this state" means any navigable waters
263 of the United States within the territorial limits of this
264 state, ~~and~~ the marginal sea adjacent to this state and the high
265 seas when navigated as a part of a journey or ride to or from
266 the shore of this state, and all the inland lakes, rivers, and
267 canals under the jurisdiction of this state.

268 Section 3. Section 327.375, Florida Statutes, is created to
269 read:

270 327.375 Commercial parasailing.-

271 (1) The operator of a vessel engaged in commercial
272 parasailing shall, in addition to the provisions provided in
273 this section, ensure that the provisions of s. 327.37 are met.

274 (2) The owner or operator of a vessel engaged in commercial
275 parasailing may not offer or provide for consideration any
276 parasailing activity unless the owner or operator first obtains
277 and carries in full force and effect a liability insurance
278 policy, from an insurance carrier licensed in this state or
279 approved by the Office of Insurance Regulation, or from an
280 eligible surplus lines insurer. The liability insurance policy
281 must provide bodily injury liability coverage in the amounts of
282 at least \$1 million per person and \$2 million per occurrence.
283 Proof of insurance must be available for inspection at the
284 location where commercial parasailing is offered or provided for
285 consideration, and each customer who requests it shall be
286 provided with the insurance carrier's name and address and the
287 insurance policy number.

288 (3) The operator of a vessel engaged in commercial
289 parasailing must have a current and valid license issued by the
290 United States Coast Guard authorizing that person to carry

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291 passengers for hire. The license must be appropriate for the
292 number of passengers carried and the displacement of the vessel.
293 The license must be carried on the vessel and be available for
294 inspection while engaging in commercial parasailing activities.

295 (4) A vessel engaged in commercial parasailing must be
296 equipped with a functional VHF Marine transceiver and a separate
297 electronic device capable of access to National Weather Service
298 forecasts and current weather conditions.

299 (5) (a) Commercial parasailing is prohibited when the
300 current observed wind conditions in the area of operation
301 include a sustained wind speed of more than 20 miles per hour,
302 wind gusts of a difference of 15 miles per hour greater than the
303 sustained wind speed, the wind speed during gusts exceeds 25
304 miles per hour, rain or heavy fog results in reduced visibility
305 of less than 0.5 mile, or when a known lightning storm comes
306 within 7 miles of the parasailing area.

307 (b) The operator of the vessel engaged in commercial
308 parasailing shall use all available means to determine
309 prevailing and forecasted weather conditions and must record
310 this information in a weather log each time passengers are to be
311 taken out on the water. The weather log must be available for
312 inspection at all times at the place of business.

313 (6) A person or operator who violates any provision of this
314 section commits a misdemeanor of the second degree, punishable
315 as provided in s. 775.082 or s. 775.083.

316 Section 4. Paragraph (d) of subsection (5) of section
317 320.08, Florida Statutes, is amended to read:

318 320.08 License taxes.—Except as otherwise provided herein,
319 there are hereby levied and imposed annual license taxes for the

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320 operation of motor vehicles, mopeds, motorized bicycles as
321 defined in s. 316.003(2), tri-vehicles as defined in s. 316.003,
322 and mobile homes, as defined in s. 320.01, which shall be paid
323 to and collected by the department or its agent upon the
324 registration or renewal of registration of the following:

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

327 (d) A wrecker, as defined in s. 320.01(40), which is used
328 to tow a vessel as defined in s. 327.02(41) ~~s. 327.02(39)~~, a
329 disabled, abandoned, stolen-recovered, or impounded motor
330 vehicle as defined in s. 320.01(38), or a replacement motor
331 vehicle as defined in s. 320.01(39): \$41 flat, of which \$11
332 shall be deposited into the General Revenue Fund.

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

335 327.391 Airboats regulated.—

336 (1) The exhaust of every internal combustion engine used on
337 any airboat operated on the waters of this state shall be
338 provided with an automotive-style factory muffler, underwater
339 exhaust, or other manufactured device capable of adequately
340 muffling the sound of the exhaust of the engine as described in
341 s. 327.02(25) ~~s. 327.02(24)~~. The use of cutouts or flex pipe as
342 the sole source of muffling is prohibited, except as provided in
343 subsection (4). Any person who violates this subsection commits
344 a noncriminal infraction punishable as provided in s. 327.73(1).

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

347 328.17 Nonjudicial sale of vessels.—

348 (4) A marina, as defined in s. 327.02(21) ~~s. 327.02(20)~~,

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349 shall have:

350 (a) A possessory lien upon any vessel for storage fees,
351 dockage fees, repairs, improvements, or other work-related
352 storage charges, and for expenses necessary for preservation of
353 the vessel or expenses reasonably incurred in the sale or other
354 disposition of the vessel. The possessory lien shall attach as
355 of the date the vessel is brought to the marina or as of the
356 date the vessel first occupies rental space at the marina
357 facility.

358 (b) A possessory lien upon any vessel in a wrecked, junked,
359 or substantially dismantled condition, which has been left
360 abandoned at a marina, for expenses reasonably incurred in the
361 removal and disposal of the vessel. The possessory lien shall
362 attach as of the date the vessel arrives at the marina or as of
363 the date the vessel first occupies rental space at the marina
364 facility. If the funds recovered from the sale of the vessel, or
365 from the scrap or salvage value of the vessel, are insufficient
366 to cover the expenses reasonably incurred by the marina in
367 removing and disposing of the vessel, all costs in excess of
368 recovery shall be recoverable against the owner of the vessel.
369 For a vessel damaged as a result of a named storm, the
370 provisions of this paragraph shall be suspended for 60 days
371 following the date the vessel is damaged in the named storm. The
372 operation of the provisions specified in this paragraph run
373 concurrently with, and do not extend, the 60-day notice periods
374 provided in subsections (5) and (7).

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

377 342.07 Recreational and commercial working waterfronts;

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378 legislative findings; definitions.—

379 (2) As used in this section, the term "recreational and
380 commercial working waterfront" means a parcel or parcels of real
381 property which ~~that~~ provide access for water-dependent
382 commercial activities, including hotels and motels as defined in
383 s. 509.242(1), or provide access for the public to the navigable
384 waters of the state. Recreational and commercial working
385 waterfronts require direct access to or a location on, over, or
386 adjacent to a navigable body of water. The term includes water-
387 dependent facilities that are open to the public and offer
388 public access by vessels to the waters of the state or that are
389 support facilities for recreational, commercial, research, or
390 governmental vessels. These facilities include public lodging
391 establishments, docks, wharfs, lifts, wet and dry marinas, boat
392 ramps, boat hauling and repair facilities, commercial fishing
393 facilities, boat construction facilities, and other support
394 structures over the water. As used in this section, the term
395 "vessel" has the same meaning as in s. 327.02(41) ~~s. 327.02(39)~~.
396 Seaports are excluded from the definition.

397 Section 8. Paragraph (b) of subsection (1) of section
398 713.78, Florida Statutes, is amended to read:

399 713.78 Liens for recovering, towing, or storing vehicles
400 and vessels.—

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

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

406 Section 9. Paragraph (b) of subsection (1) of section

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407 715.07, Florida Statutes, is amended to read:

408 715.07 Vehicles or vessels parked on private property;
409 towing.-

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

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

415 Section 10. This act shall take effect October 1, 2013.