

A bill to be entitled

An act relating to commercial parasailing; providing a short title; amending s. 327.02, F.S.; defining terms; creating s. 327.375, F.S.; requiring the operator of a vessel engaged in commercial parasailing to ensure that specified requirements are met; requiring the owner of a vessel engaged in commercial parasailing to obtain and maintain an insurance policy; providing minimum coverage requirements for the insurance policy; providing requirements for proof of insurance; specifying the insurance information that must be provided upon request; requiring the operator to have a current and valid license issued by the United States Coast Guard; prohibiting commercial parasailing unless certain equipment is present on the vessel and certain weather conditions are met; requiring that a weather log be maintained and made available for inspection; providing a criminal penalty; amending ss. 320.08, 327.391, 328.17, 342.07, 713.78, and 715.07, F.S.; conforming cross-references; providing an effective date.

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

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

27 Section 2. Section 327.02, Florida Statutes, is amended to  
 28 read:

29 327.02 Definitions.—As used in this chapter and in chapter  
 30 328, unless the context clearly requires a different meaning,  
 31 the term:

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

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

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

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

51 (5) "Commercial parasailing" means providing or offering  
 52 to provide, for consideration, any activity involving the towing

53 of a person by a motorboat if:

54 (a) One or more persons are tethered to the towing vessel;

55 (b) The person or persons ascend above the water; and

56 (c) The person or persons remain suspended under a canopy,  
 57 chute, or parasail above the water while the vessel is underway.

58  
 59 The term does not include ultralight glider towing conducted  
 60 under rules of the Federal Aviation Administration governing  
 61 ultralight vehicles as defined in 14 C.F.R. part 103.

62 (6)-(5) "Commercial vessel" means:

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

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

72 (7)-(6) "Commission" means the Fish and Wildlife  
 73 Conservation Commission.

74 (8)-(7) "Dealer" means a ~~any~~ person authorized by the  
 75 Department of Revenue to buy, sell, resell, or otherwise  
 76 distribute vessels. Such person must ~~shall~~ have a valid sales  
 77 tax certificate of registration issued by the Department of  
 78 Revenue and a valid commercial or occupational license required

79 | by any county, municipality, or political subdivision of the  
 80 | state in which the person operates.

81 |        (9)~~(8)~~ "Division" means the Division of Law Enforcement of  
 82 | the Fish and Wildlife Conservation Commission.

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

86 |        (11)~~(10)~~ "Floating structure" means a floating entity,  
 87 | with or without accommodations built thereon, which is not  
 88 | primarily used as a means of transportation on water but which  
 89 | serves purposes or provides services typically associated with a  
 90 | structure or other improvement to real property. The term  
 91 | ~~"floating structure"~~ includes, but is not limited to, an ~~each~~  
 92 | entity used as a residence, place of business or office with  
 93 | public access; a~~r~~ hotel or motel; a~~r~~ restaurant or lounge; a~~r~~  
 94 | clubhouse; a~~r~~ meeting facility; a~~r~~ storage or parking facility;  
 95 | or a~~r~~ mining platform, dredge, dragline, or similar facility or  
 96 | entity represented as such. Floating structures are expressly  
 97 | excluded from the definition of the term "vessel" provided in  
 98 | this section. Incidental movement upon water or resting  
 99 | partially or entirely on the bottom does ~~shall~~ not, in and of  
 100 | itself, preclude an entity from classification as a floating  
 101 | 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 the Gulf of Mexico; the Gulf  
 111 Intracoastal Waterway, Carrabelle to the Alabama state line west  
 112 of Pensacola; and the Apalachicola, Chattahoochee, and Flint  
 113 Rivers in Florida.

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

126 ~~(14)~~~~(13)~~ "Houseboat" means a any vessel that ~~which~~ is used  
 127 primarily as a residence for at least ~~a minimum of~~ 21 days  
 128 during any 30-day period, in a county of this state if such, ~~and~~  
 129 ~~this~~ residential use of the vessel is to the preclusion of its  
 130 ~~the use of the vessel~~ as a 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) A ~~Any~~ vessel used solely as a residence and not for  
 144 navigation;

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

147        (c) A ~~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 a ~~any~~ vessel leased,  
 153 rented, or chartered to another for consideration.

154        ~~(20)-(19)~~ "Manufactured vessel" means a ~~any~~ vessel built  
 155 after October 31, 1972, for which a federal hull identification  
 156 number is required pursuant to federal law, or a ~~any~~ vessel

157 | constructed or assembled before ~~prior to~~ November 1, 1972, by a  
 158 | duly 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 is ~~shall be~~  
 163 | considered a marina for nonjudicial sale purposes.

164 | ~~(22)-(21)~~ "Marine sanitation device" means ~~any~~ 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 a ~~any~~ channel mark or other aid to  
 171 | navigation, an information or regulatory mark, an isolated  
 172 | danger mark, a safe water mark, a special mark, an inland waters  
 173 | obstruction mark, or mooring buoy in, on, or over the waters of  
 174 | the state or the shores thereof, and includes, but is not  
 175 | limited to, a sign, beacon, buoy, or light.

176 | ~~(24)-(23)~~ "Motorboat" means a ~~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, for vessels on:

185 (a) ~~For vessels on~~ Waters outside ~~of~~ established  
 186 navigational lines of demarcation as specified in 33 C.F.R. part  
 187 80, the International Navigational Rules Act of 1977, 33 U.S.C.  
 188 s. 1602, as amended, including the appendix and annexes thereto,  
 189 through October 1, 2012.

190 (b) ~~For vessels on~~ All waters not outside of such  
 191 established lines of demarcation, the Inland Navigational Rules  
 192 Act of 1980, 33 C.F.R. parts 83-90, as amended, through October  
 193 1, 2012.

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

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

206 (29)~~(28)~~ "Owner" means a person, other than a lienholder,  
 207 having the property in or title to a vessel. The term includes a  
 208 person entitled to the use or possession of a vessel subject to



209 an interest in another person which is reserved or created by  
 210 agreement and securing payment of performance of an obligation.7  
 211 ~~but~~ The term does not include ~~excludes~~ a lessee under a lease  
 212 not intended as security.

213 (30)~~(29)~~ "Person" means an individual, partnership, firm,  
 214 corporation, association, or other entity.

215 (31)~~(30)~~ "Personal watercraft" means a vessel less than 16  
 216 feet in length which uses an inboard motor powering a water jet  
 217 pump~~7~~ as its primary source of motive power and which is  
 218 designed to be operated by a person sitting, standing, or  
 219 kneeling on the vessel, rather than in the conventional manner  
 220 of sitting or standing inside the vessel.

221 (32)~~(31)~~ "Portable toilet" means a device consisting of a  
 222 lid, seat, containment vessel, and support structure which ~~that~~  
 223 is specifically designed to receive, retain, and discharge human  
 224 waste and which ~~that~~ is capable of being removed from a vessel  
 225 by hand.

226 (33)~~(32)~~ "Prohibited activity" means ~~such~~ activity that ~~as~~  
 227 will impede or disturb navigation or creates a safety hazard on  
 228 waterways of this state.

229 (34)~~(33)~~ "Racing shell," "rowing scull," or "racing kayak"  
 230 means a manually propelled vessel that ~~which~~ is recognized by  
 231 national or international racing associations for use in  
 232 competitive racing and in which all occupants, with the  
 233 exception of a coxswain, if one is provided, row, scull, or  
 234 paddle and that ~~which~~ is not designed to carry and does not

235 carry any equipment not solely for competitive racing.

236 (35)~~(34)~~ "Recreational vessel" means a ~~any~~ vessel:

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

239 (b) Leased, rented, or chartered to a person for his or  
240 her ~~the person's~~ noncommercial use.

241 (36)~~(35)~~ "Registration" means a state operating license on  
242 a vessel which is issued with an identifying number, an annual  
243 certificate of registration, and a decal designating the year  
244 for which a registration fee is paid.

245 (37)~~(36)~~ "Resident" means a citizen of the United States  
246 who has established residence in this state and has continuously  
247 resided in this state for 1 year and in one county for the 6  
248 months immediately preceding the initiation of a vessel titling  
249 or registration action.

250 (38)~~(37)~~ "Sailboat" means a ~~any~~ vessel whose sole source  
251 of propulsion is the wind.

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

255 (40)~~(38)~~ "Unclaimed vessel" means an ~~any~~ undocumented  
256 vessel, including its machinery, rigging, and accessories, which  
257 is in the physical possession of a ~~any~~ marina, garage, or repair  
258 shop for repairs, improvements, or other work with the knowledge  
259 of the vessel owner and for which the costs of such services  
260 have been unpaid for more than ~~a period in excess of~~ 90 days

261 after ~~from~~ the date written notice of the completed work is  
 262 given by the marina, garage, or repair shop to the vessel owner.

263 ~~(41)-(39)~~ "Vessel" is synonymous with boat as referenced in  
 264 s. 1(b), Art. VII of the State Constitution and includes every  
 265 description of watercraft, barge, and airboat, other than a  
 266 seaplane on the water, used or capable of being used as a means  
 267 of transportation on water.

268 ~~(42)-(40)~~ "Waters of this state" means any navigable waters  
 269 of the United States within the territorial limits of this  
 270 state, ~~and~~ the marginal sea adjacent to this state and the high  
 271 seas when navigated as a part of a journey or ride to or from  
 272 the shore of this state, and all the inland lakes, rivers, and  
 273 canals under the jurisdiction of this state.

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

276 327.375 Commercial parasailing.-

277 (1) The operator of a vessel engaged in commercial  
 278 parasailing shall ensure that the provisions of this section and  
 279 s. 327.37 are met.

280 (2) The owner or operator of a vessel engaged in  
 281 commercial parasailing may not offer or provide for  
 282 consideration any parasailing activity unless the owner or  
 283 operator first obtains and maintains in full force and effect a  
 284 liability insurance policy from an insurance carrier licensed in  
 285 this state or approved by the Office of Insurance Regulation or  
 286 an eligible surplus lines insurer. Such policy must provide

287 bodily injury liability coverage in the amounts of at least \$1  
288 million per occurrence and \$2 million annual aggregate. Proof of  
289 insurance must be available for inspection at the location where  
290 commercial parasailing is offered or provided for consideration,  
291 and each customer who requests such proof shall be provided with  
292 the insurance carrier's name and address and the insurance  
293 policy number.

294 (3) The operator of a vessel engaged in commercial  
295 parasailing must have a current and valid license issued by the  
296 United States Coast Guard authorizing the operator to carry  
297 passengers for hire. The license must be appropriate for the  
298 number of passengers carried and the displacement of the vessel.  
299 The license must be carried on the vessel and be available for  
300 inspection while engaging in commercial parasailing activities.

301 (4) A vessel engaged in commercial parasailing must be  
302 equipped with a functional VHF marine transceiver and a separate  
303 electronic device capable of providing access to National  
304 Weather Service forecasts and current weather conditions.

305 (5) (a) Commercial parasailing is prohibited if the current  
306 observed wind conditions in the area of operation include a  
307 sustained wind speed of more than 20 miles per hour; if wind  
308 gusts are 15 miles per hour higher than the sustained wind  
309 speed; if the wind speed during gusts exceeds 25 miles per hour;  
310 if rain or heavy fog results in reduced visibility of less than  
311 0.5 mile; or if a known lightning storm comes within 7 miles of  
312 the parasailing area.

313           (b) The operator of the vessel engaged in commercial  
 314 parasailing shall use all available means to determine  
 315 prevailing and forecasted weather conditions and record this  
 316 information in a weather log each time passengers are to be  
 317 taken out on the water. The weather log must be available for  
 318 inspection at all times at the operator's place of business.

319           (6) A person or operator who violates this section commits  
 320 a misdemeanor of the second degree, punishable as provided in s.  
 321 775.082 or s. 775.083.

322           Section 4. Paragraph (d) of subsection (5) of section  
 323 320.08, Florida Statutes, is amended to read:

324           320.08 License taxes.—Except as otherwise provided herein,  
 325 there are hereby levied and imposed annual license taxes for the  
 326 operation of motor vehicles, mopeds, motorized bicycles as  
 327 defined in s. 316.003(2), tri-vehicles as defined in s. 316.003,  
 328 and mobile homes, as defined in s. 320.01, which shall be paid  
 329 to and collected by the department or its agent upon the  
 330 registration or renewal of registration of the following:

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

333           (d) A wrecker, as defined in s. 320.01, which is used to  
 334 tow a vessel as defined in s. 327.02~~(39)~~, a disabled, abandoned,  
 335 stolen-recovered, or impounded motor vehicle as defined in s.  
 336 320.01, or a replacement motor vehicle as defined in s. 320.01:  
 337 \$41 flat, of which \$11 shall be deposited into the General  
 338 Revenue Fund.

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

341 327.391 Airboats regulated.—

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

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

353 328.17 Nonjudicial sale of vessels.—

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

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

363 (b) A possessory lien upon any vessel in a wrecked,  
 364 junked, or substantially dismantled condition, which has been

HB 347

2014

365 left abandoned at a marina, for expenses reasonably incurred in  
366 the removal and disposal of the vessel. The possessory lien  
367 attaches ~~shall attach~~ as of the date the vessel arrives at the  
368 marina or as of the date the vessel first occupies rental space  
369 at the marina facility. If the funds recovered from the sale of  
370 ~~the vessel,~~ or ~~from~~ the scrap or salvage value of the vessel,  
371 are insufficient to cover the expenses reasonably incurred by  
372 the marina in removing and disposing of the vessel, all costs in  
373 excess of recovery shall be recoverable against the owner of the  
374 vessel. For a vessel damaged as a result of a named storm, the  
375 provisions of this paragraph shall be suspended for 60 days  
376 after ~~following~~ the date the vessel is damaged in the named  
377 storm. The operation of the provisions specified in this  
378 paragraph run concurrently with, and do not extend, the 60-day  
379 notice periods provided in subsections (5) and (7).

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

382 342.07 Recreational and commercial working waterfronts;  
383 legislative findings; definitions.—

384 (2) As used in this section, the term "recreational and  
385 commercial working waterfront" means a parcel or parcels of real  
386 property which ~~that~~ provide access for water-dependent  
387 commercial activities, including hotels and motels as defined in  
388 s. 509.242(1), or provide access for the public to the navigable  
389 waters of the state. Recreational and commercial working  
390 waterfronts require direct access to or a location on, over, or

391 adjacent to a navigable body of water. The term includes water-  
 392 dependent facilities that are open to the public and offer  
 393 public access by vessels to the waters of the state or that are  
 394 support facilities for recreational, commercial, research, or  
 395 governmental vessels. These facilities include public lodging  
 396 establishments, docks, wharfs, lifts, wet and dry marinas, boat  
 397 ramps, boat hauling and repair facilities, commercial fishing  
 398 facilities, boat construction facilities, and other support  
 399 structures over the water. As used in this section, the term  
 400 "vessel" has the same meaning as in s. 327.02~~(39)~~. Seaports are  
 401 excluded from the definition.

402 Section 8. Paragraph (b) of subsection (1) of section  
 403 713.78, Florida Statutes, is amended to read:

404 713.78 Liens for recovering, towing, or storing vehicles  
 405 and vessels.—

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

407 (b) "Vessel" means every description of watercraft, barge,  
 408 and airboat used or capable of being used as a means of  
 409 transportation on water, other than a seaplane or a "documented  
 410 vessel" as defined in s. 327.02~~(9)~~.

411 Section 9. Paragraph (b) of subsection (1) of section  
 412 715.07, Florida Statutes, is amended to read:

413 715.07 Vehicles or vessels parked on private property;  
 414 towing.—

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

416 (b) "Vessel" means every description of watercraft, barge,



HB 347

2014

417 | and airboat used or capable of being used as a means of  
418 | transportation on water, other than a seaplane or a "documented  
419 | vessel" as defined in s. 327.02~~(9)~~.

420 |       Section 10. This act shall take effect October 1, 2014.