

STORAGE NAME: s0728z.wrm
DATE: June 23, 1999

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
WATER & RESOURCE MANAGEMENT
FINAL ANALYSIS**

BILL #: CS/SB 728
RELATING TO: Watersports/Parasails
SPONSOR(S): Senate Natural Resources Committee and Senator Sullivan
COMPANION BILL(S): HB 697 (s) by Representative Edwards
ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) NATURAL RESOURCES
(2)
(3)
(4)
(5)

I. FINAL ACTION STATUS:

On April 6, 1999, the Senate passed CS/SB 728 by a vote of 38-0. On April 21, 1999, the CS/SB 728 was substituted for HB 697, read a second and third time, and passed by the House with a vote of 111-5. The Governor signed CS/SB 728 on May 15, 1999; the law was later designated chapter 99-162, Laws of Florida.

II. SUMMARY:

CS/SB 728 amends s. 327.37, Florida Statutes, to provide that vessels towing a person attached to a parasail or similar device must have another person on board the vessel, in addition to the operator, to observe the progress of the person being towed. The bill clarifies that a wide-angle rear view mirror is not acceptable for purposes of observation. The bill further prohibits persons from parasailing at any time between the hours of one-half hour after sunset to one-half hour before sunrise.

In addition, CS/SB 728 provides that a person may not engage in parasailing or any similar activity without wearing a non-inflatable type V personal flotation device approved by the United States Coast Guard. The bill also provides exemptions from the requirements of the bill for certain persons. The operation or manipulation of a vessel, tow rope, or other device by which the direction and location of a parasail may be affected or controlled in such a way as to cause the parasail to collide or strike against any vessel, bridge, wharf, pier, dock, buoy, platform, or other object is prohibited.

CS/SB 728 prohibits persons from operating any vessel towing a parasail, or from engaging in parasailing, within 100 feet of the marked channel of the Florida Intracoastal Waterway.

The bill takes effect on July 1, 1999.

III. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Currently, s. 327.37, F.S. provides safety regulations for persons operating vessels towing a person on water skis, aquaplanes, or similar devices. These vessels are required to be equipped with a wide-angle rear view mirror mounted in such a way as to allow the vessel operator to observe the progress of the person being towed. Other safety precautions include time limitations on water skiing and aquaplaning activities, mandatory wearing of personal flotation devices by persons water skiing or aquaplaning, and regulations prohibiting the manipulation or operation of any vessel, tow rope, or other device that would affect the direction or location of the water skis or aquaplane.

Parasailing remains an unregulated sport at this time. A survey of Florida's 67 counties, prepared by the Legislative Committee on Intergovernmental Relations, reveals that of the 35 counties responding to the survey, only two have county ordinances regulating. Bay County implemented ordinances in 1995 and in 1996 to regulate parasailing licenses due to injuries resulting from beach landings. Lee County passed an ordinance in 1995 at the request of the local parasailing industry. Florida's Department of Environmental Protection received reports of parasailors striking power lines, shore-side structures, and other objects. In addition, parasailing in the Intracoastal Waterway has reportedly created safety problems with other vessels.

EFFECT OF PROPOSED CHANGES:

CS/SB 728 does the following:

- o Provides that in addition to the operator of the vessel, another person must be on board any vessel towing a person attached to a parasail or similar device, in a position to observe the progress of the person being towed.
- o Provides that a wide-angle rear view mirror suitable for observation of water skiers or aquaplanes is not suitable for observing a person attached to a parasail or similar device.
- o Provides that no person may engage in parasailing between the hours from one-half hour after sunset to one-half hour before sunrise.
- o Provides that a person may not engage in parasailing without wearing a Type I, II, III, or non-inflatable Type V personal flotation device approved by the United States Coast Guard.
- o Specifies that persons preparing to participate or participating in a professional exhibition, an official regatta, boat race, marine parade, tournament, or exhibition held pursuant to s. 327.48, F.S., are exempt from the provisions of the bill.
- o Provides that no person may operate or manipulate any vessel, tow rope, or other device by which the direction or location of a parasail may be affected or controlled, in such a way as to cause the parasail or similar device, or any person thereon, to collide or strike against or be likely to collide or strike against any vessel, bridge, wharf, pier, dock, buoy, platform, or other object.
- o Specifies that a person may not operate any vessel towing a parasail, or engage in parasailing, within 100 feet of the marked channel of the Florida Intracoastal Waterway.

B. APPLICATION OF PRINCIPLES:

1. Less Government:

- a. Does the bill create, increase or reduce, either directly or indirectly:

- (1) any authority to make rules or adjudicate disputes?

No new rulemaking authority is created. However, DEP is already granted authority pursuant to s. 327.04, F.S., to adopt rules necessary to carry out the administrative powers and duties conferred in chapter 327.

- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. The bill creates new responsibilities for the operators of vessels towing a parasail or similar device by requiring that an additional person be on board the vessel to observe the person parasailing.

- (3) any entitlement to a government service or benefit?

No.

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

None.

- (2) what is the cost of such responsibility at the new level/agency?

None.

- (3) how is the new agency accountable to the people governed?

None.

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Possibly. Persons paying to parasail may see increased fees due to the requirements of the bill providing that an additional person must be on board the vessel towing the parasail. Business interests may pass salary costs for the additional person on to the consumer.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Yes. The bill creates new government interference by providing safety regulations, and indirectly, penalties for violating those safety regulations, for parasailing which is unregulated by the state at the present time.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

C. STATUTE(S) AFFECTED:

Amends sections 327.37, 327.72, 327.73, and 327.731 F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 327.37, F.S., to provide that a person may not operate a vessel towing a person attached to a parasail or similar device unless there is a person in the vessel, in addition to the operator, in a position to observe the person being towed. A wide-angle rear view mirror is not acceptable for this purpose.

Provides that persons are prohibited from parasailing at any time between the hours from one-half hour after sunset to one-half hour before sunrise. Provides that persons may not parasail, or engage in a similar activity, without wearing a Type I, Type II, Type III, or a noninflatable Type V personal flotation device approved by the United States Coast Guard.

Provides exemptions from the requirements of the bill for persons engaging in, or preparing to engage in, a professional exhibition, an official regatta, a boat race, marine parade, tournament, or other exhibition held pursuant to s. 327.48, F.S.

Provides that a person may not operate or manipulate any vessel, tow rope, or other device by which the direction or location of a parasail may be affected or controlled in such a way as to cause the parasail to collide or strike against, or be likely to collide or strike against, any vessel, bridge, wharf, pier, dock, or other object.

Provides that a person may not operate any vessel towing a parasail or similar device within 100 feet of the marked channel of the Florida Intracoastal Waterway.

Section 2: Amends s. 327.73, F.S., to add violations of parasailing regulations to the list of noncriminal infractions contained in chapter 327, Florida Statutes. Provides that persons failing to respond or appear when charged with a noncriminal violation may be subject to misdemeanor penalties.

Section 3: Reenacts s. 327.72, F.S., to provide second degree misdemeanor penalties for persons failing to pay a fine assessed in a noncriminal violation.

Section 4: Reenacts s. 327.731, F.S., 1998 Supplement, to provide that persons convicted of criminal violations, persons convicted of noncriminal infractions resulting in a boating accident, and every person convicted of two noncriminal infractions specified in chapter 327, including violations of parasailing regulations, within a 12-month period must take a boating safety course meeting minimum standards established by DEP (and, after July 1, 1999, the FWCC) at their own expense.

Section 5: Provides an effective date of July 1, 1999.

IV. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

The Division of Law Enforcement within the Department of Environmental Protection (and, as of July 1, 1999, the Division of Law Enforcement within the FWCC) may see increased costs associated with the enforcement provisions of the bill.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

Indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

Local law enforcement agencies may see some increased costs associated with implementing the provisions of this bill.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Indeterminate. Persons interested in parasailing may see increased fees due to the costs of implementing the provisions of this bill.

2. Direct Private Sector Benefits:

Indeterminate. Stronger regulation of parasailing may save lives.

3. Effects on Competition, Private Enterprise and Employment Markets:

Indeterminate. Some watersport businesses may be unable to sustain the costs of hiring persons necessary to fulfill the requirements of the bill.

D. FISCAL COMMENTS:

None.

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

CS/SB 728 does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

CS/SB 728 does not reduce the authority that municipalities or counties have to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

CS/SB 728 does not reduce state tax revenues shared with counties and municipalities.

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VI. COMMENTS:

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VIII. SIGNATURES:

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON WATER & RESOURCE MANAGEMENT:

Prepared by:

Staff Director:

Karon A. Molloy

Joyce Pugh