

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Environmental Preservation Committee

BILL: SB 2076

SPONSOR: Senator Sebesta

SUBJECT: Commercial Parasailing

DATE: April 19, 2005

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|--------------------|--------------------|-----------|------------------|
| 1. | <u>Branning</u> | <u>Kiger</u> | <u>EP</u> | Favorable |
| 2. | <u>Deffenbaugh</u> | <u>Deffenbaugh</u> | <u>BI</u> | Favorable |
| 3. | _____ | _____ | <u>GA</u> | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

This bill provides for the regulation of commercial parasailing activities. It provides for an annual license from the Fish and Wildlife Conservation Commission for vessels engaged in commercial parasailing. Requires the owner of a vessel engaged in commercial parasailing activities to carry liability insurance and specifies the minimum amounts for such insurance. The requirements for persons conducting commercial parasailing activities are specified. A criminal penalty for violations of the commercial parasailing provisions is provided.

This bill creates s. 327.375, F.S.

II. Present Situation:

Parasailing is a recreational sport of soaring in a parachute while being towed by a motorboat. In July, 2001, a mother and daughter were killed while tandem parasailing off Fort Myers Beach, Florida, when their parasail harness yoke broke during worsening weather conditions, causing them to fall from over 200 feet aloft into 3 feet of water. In December, 2003, at Bradenton Beach, Florida, two fifteen-year-old girls were tandem parasailing when their tow line snapped, causing the girls to slam into the side of a house, but they were not seriously injured. A number of other accidents have occurred, primarily on the west coast of Florida.

There are no federal regulations that specifically pertain to the operation of equipment of commercial parasail vessels. But, there are regulations for commercial passenger vessels enforced by the U.S. Coast Guard. A small passenger vessel designed to carry more than 6 passengers for hire must be annually inspected by the Coast Guard. But, if it carries less than 6 passengers, the vessel is not inspected, and most parasailing vessels are in this category. Even for those that are inspected, the regulations are only basic vessel and passenger operation and safety

equipment requirements. The operator of a commercial vessel must be licensed by the U.S. Coast Guard, but the applicant is not required to demonstrate any formal training or experience for parasail operations in particular. If a licensed operator is negligent in his or her operations, the Coast Guard can suspend or revoke the license.¹

The U.S. Coast Guard Office of Investigation and Analysis conducted a study of commercial parasailing accidents reported for the 10-year period from 1992 through 2001.² Federal regulations require that the owner or operator of a U.S. flagged passenger vessel to report any marine accidents occurring on navigable waters involving a loss of life or an injury that requires medical treatment beyond first aid, and certain other property damage cases. During that time there were 59 accidents reported for parasail vessels nationwide, that resulted in 64 injuries and three deaths. Of the 59 accidents, 16 were in the Tampa area, second only to the 20 in Honolulu, Hawaii. For the rest of the state of Florida, there were 6 accidents reported from Panama City and 2 from Miami. However, there was likely to be under-reporting of such accidents and certain other sources report higher numbers. But, the U.S. Coast Guard report concluded that from the data available, there did not appear to be a major problem with deaths or injuries within the parasail industry. In 2003 (after this report), 4 more parasail accidents were reported in the Tampa area.

The most common casualty found in the Coast Guard report was an injury from a fall aloft while tandem parasailing from an uninspected vessel, caused by an equipment failure or vessel operator error. In many cases the weather conditions or a sudden violent change in the weather was a contributing factor. The report noted that operators should be cognizant of current and forecast weather and be prepared to take appropriate evasive actions. It further stated that operators should be alert for signs of damage and unusual wear to their equipment and replace items in a timely manner.

The U.S. Coast Guard Marine Safety Office (MSO) in Tampa recently began a Voluntary Commercial Parasail Vessel Safety Examination Program. It began by holding a commercial parasail vessel workshop in January, 2004. The program is intended to promote commercial parasail vessel safety in a non-regulatory manner, for the west coast of Florida. The website for the MSO states that the parasail marine casualty rate is infrequent and does not present a priority safety concern on the national level, but the analysis of the reported incidents revealed that they had the potential for more severe consequences. It further states that there was little Coast Guard information or guidance for the promotion of parasail safety and that local action was needed to reduce parasail risk in the Tampa area.³ Beginning in the summer of 2004, parasail operators can receive a safety examination, on a voluntary basis, from the MSO Tampa Parasail Vessel Examiner. Operators who meet all the requirements will receive a decal signifying their conformance with parasail safe practices. It is encouraged that owners advertise the decal to get customers to be aware of its significance.

¹ Presentation by U.S. Coast Guard Marine Safety Office Tampa, at Commercial Parasail Vessel Workshop, Jan. 21, 2004. Available at: <http://www.uscg.mil/d7/units/mso-tampa/presentation2.pdf>

² *Analysis of Parasail Vessel Casualties - A Review of Casualties Aboard Inspected and Uninspected U.S. Flagged Vessels Engaged in Parasailing for Hire, CY 1992-2001* U.S. Coast Guard Office of Investigation and Analysis (undated); at: http://www.uscg.mil/d7/units/mso-tampa/ParasailStudy92_01_final.pdf

³ <http://www.uscg.mil/d7/units/mso-tampa/parasail.html>

Under Florida law, s. 327.37(1)(b), F.S., provides that a person may not operate a vessel on any water of this state 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 progress of the person being towed. A wide-angle rear view mirror is not acceptable for this purpose.

Section 327.37(2), F.S., states that a person may not engage in water skiing, parasailing, aquaplaning, or any similar activity at any time between the hours from one-half hour after sunset to one-half hour before sunrise. Further, a person may not engage in these activities unless that person is wearing a noninflatable type I, type II, type III, or type V personal flotation device approved by the U.S. Coast Guard.

Section 327.37(4), F.S., provides that the tow rope or other device which controls the direction of the water skis, parasail, aquaplane, inner tube, sled, or other such device, cannot be manipulated so as to strike or collide with any vessel, bridge, wharf, pier, dock, buoy, platform, piling, channel marker, or other object, except slalom buoys, ski jumps, or like objects used normally in competitive or recreational skiing.

Further, s. 327.37(5), F.S., provides 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.

Pursuant to s. 327.73, F.S., violations of s. 327.37, F.S., are noncriminal infractions and the civil penalty for such infractions is a \$50 fine.

The website for the Professional Association of Parasail Operators (San Diego, Cal.) states that recent parasail accidents have led to an insurance carrier exodus, making it very difficult for operators to obtain liability insurance or resulting in a substantial premium increase. It states seeing only premium quotes of over \$19,000 per vessel, per year, but does not specify the limits of coverage (likely to be \$1 million).⁴

III. Effect of Proposed Changes:

This bill creates s. 327.375, F.S., relating to commercial parasailing. “Commercial parasailing,” means providing or offering to provide, for consideration, any activity involving the towing of a person by a motorboat when:

- One or more persons are tethered to the towing vessel;
- The person or persons ascend above the water; and
- The person or persons remain suspended above the water while the vessel is underway.

A vessel engaged in commercial parasailing must obtain a \$50 annual license from the Fish and Wildlife Conservation Commission. All license fees collected are to be paid into the Marine Resources Conservation Trust Fund to recover the associated costs of regulating commercial parasailing. The license must be available for inspection when the vessel is engaged in commercial parasailing.

⁴ <http://www.teampapo.org/>

The owner of a vessel engaged in commercial parasailing must carry insurance against an accident, loss, injury, property damage, or other casualty caused by or resulting from the commercial parasailing activity. The insurance policy must provide minimum coverage of \$500,000 per person and \$1 million per event. The deductible for the policy may not exceed \$5,000 per event. Proof of insurance must be carried on the vessel. A person conducting a commercial parasailing activity must give each rider the insurance carrier's name and address and the insurance policy number.

Any person engaged in commercial parasailing must meet the following requirements:

- A person may not use any vessel for commercial parasailing unless it is designed and equipped for towing a person while parasailing and is equipped with a launch platform and powered winch to release and retrieve the towline.
- A person operating a vessel used for commercial parasailing on the waters of the state must have a current and valid license issued by the U.S. Coast Guard authorizing that person to engage in carrying passengers for hire.
- A person may not operate a vessel for commercial parasailing unless an observer 18 years or older is present in the vessel at all times to monitor the progress of any airborne parasail rider and parachute. The observer must be attentive to the parasail rider or riders and shall have no other duties while the rider or riders are in the water or suspended above the water.
- A person may not operate any vessel used in parasailing unless all riders wear a U.S. Coast Guard approved type I, type II, or type III personal flotation device; all riders are connected to the towline and secured in a seat harness attached to an ascending type of parachute; the vessel is in full compliance with all U.S. Coast Guard crewing and equipment carriage requirements; and the vessel is equipped with a functional VHF marine transceiver.

Commercial parasailing is prohibited in the Atlantic Ocean and the Gulf of Mexico in waters less than 2,000 feet from the shore. This restriction applies to the entire commercial parasailing apparatus, including the vessel, towline, and rider.

A person may not operate a vessel towing a commercial parasailing rider so that the vessel, towline, or rider comes within 600 feet of:

- An anchored vessel;
- A person in the water;
- The shore or seawall; or
- A structure, bridge, power line, wharf, pier, dock, buoy, platform, piling, channel marker, or other similar object.

Commercial parasailing is prohibited: on bodies of water less than 2,000 feet in width from shore to shore; from one-half hour after sunset to one-half hour before sunrise and at all times during restricted visibility; and when there are sustained winds of 20 knots or higher or seas 5 feet or higher in the area of operation.

Commercial parasail operators must launch riders only from and recover riders only to the vessel's launch platform and no more than two persons may be tethered to the towing vessel and ascend above the water at any time.

A violation of any of the commercial parasailing provisions is a second degree misdemeanor punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.

The bill would take effect October 1, 2005.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The bill provides that each vessel engaged in commercial parasailing must obtain an annual \$50 license from the Fish and Wildlife Conservation Commission. All license fees collected must be paid into the Marine Resources Conservation Trust Fund.

B. Private Sector Impact:

The Fish and Wildlife Conservation Commission estimates that there are over 70 commercial parasailing operators in the state. The bill requires that each vessel be licensed at a cost of \$50 per year. It is not known if some of the operators have more than one vessel that would be required to be licensed.

Also, commercial parasailing operators would be required to obtain minimum insurance coverage of \$500,000 per person and \$1 million per event. Committee staff was able to obtain only one example of a current premium, which was about \$11,000 for a \$1 million liability policy for a commercial parasail operation in the Tampa area. The website for the Professional Association of Parasail Operators (San Diego, CA) states that it is seeing only quotes of over \$19,000 per vessel per year, but does not specify the limits of coverage, probably \$1 million.

C. Government Sector Impact:

The Fish and Wildlife Conservation Commission would incur costs for licensing of commercial parasailing vessels. The license fees are to be deposited into the Marine Resources Conservation Trust Fund to cover the costs of licensure of such vessels.

It is unknown how much revenue the license fees will generate. A conservative estimate would be \$3,500 (one vessel per operator, 70 operators.)

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
