

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 919 Commercial Parasailing

**SPONSOR(S):** Domino and others

**TIED BILLS:** IDEN./SIM. BILLS:

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Conservation &amp; State Lands</u>	<u>8 Y, 0 N</u>	<u>Palmer</u>	<u>Zeiler</u>
2) <u>Environment &amp; Natural Resources Council</u>	<u></u>	<u>Palmer / Bellflower</u>	<u>Dixon / Hamby</u>
3) <u>Policy &amp; Budget Council</u>	<u></u>	<u></u>	<u></u>
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**SUMMARY ANALYSIS**

The bill requires the owner of each vessel engaged in commercial parasailing to obtain – at a cost of \$50.00 – an annual license from the Fish and Wildlife Conservation Commission (FWC). The bill provides for licensing fees to be paid into the Marine Resources Conservation Trust Fund to allow FWC to recover costs associated with regulating commercial parasailing. The license is to be available for inspection whenever a vessel is engaged in commercial parasailing. As a condition of licensing, the bill requires proof of insurance from an insurance carrier licensed in Florida and specifies the minimum types and limits of insurance coverage that is to be obtained by the owner of the vessel. The bill also requires any person in charge or in command of a vessel engaged in commercial parasailing to have a valid license, issued by the U. S. Coast Guard, authorizing that person to engage in carrying passengers for hire. The bill sets conditions and limitations for the operation of a commercial parasailing vessel.

The bill does not appear to have a significant fiscal impact on state or local governments. The FWC estimates the \$50 annual license fee will generate between \$3,500 and \$6,000 annually and that this will be sufficient to cover the cost of the licensing program.

The bill would become effective on October 1, 2008.

**There is a strike-all amendment traveling with the bill. The amendment is described in "Section IV. Amendment/Council Substitute Changes" of the analysis.**

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: Extends FWC's regulatory authority, by providing for the FWC to regulate commercial parasailing.

Safeguard Individual Liberty: This bill establishes a licensing requirement and regulations for commercial parasailing operations.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Parasailing is the towing of one or more persons attached to a specially designed parachute, known as a parasail, and tethered to a towing vehicle such that they ascend into the air while the tow vehicle is underway. A person attached to the parasail is referred to as the parascender. The towing vehicle is typically a boat and provides most of the control over the parasail – the parascender has little or no control over the parasail.

Section 327.37, F.S., provides that a person may not operate a vessel on any waters of this state while towing a person attached to a parasail or similar device unless there is an observer in the vessel, other than the operator, who is in a position to observe the progress of the person being towed. Additionally, a person may not:

- engage in parasailing or any similar activity at any time between the hours from one-half hour after sunset to one-half hour before sunrise;
- engage in parasailing or any similar activity unless the parascender is wearing a non-inflatable type I, type II, type III, or type V personal flotation device approved by the United States Coast Guard;
- operate or manipulate any vessel, tow rope, or other device, in such a way as to cause the parasail or similar device to collide or strike against or be likely to collide or strike against any vessel, bridge, wharf, pier, dock, buoy, platform, piling, channel marker, or other object; or
- operate any vessel towing a parasail or engage in parasailing within 100 feet of the marked channel of the Florida Intracoastal Waterway.

Currently, there are no statutes regulating the operation of a commercial parasailing venture.

##### Effect of Proposed Changes

The bill amends s. 327.02, F.S., defining the terms "commercial parasailing" and "sustained wind speed". Commercial parasailing means to provide or offer to provide, for consideration, any activity involving the towing of one or more persons tethered to the towing vessel such that they ascend above the water and remain suspended above the water while the vessel is underway. Sustained wind speed means a wind speed determined by averaging the observed wind speed over a 2-minute period and rounding to the nearest whole knot<sup>1</sup>.

The bill creates s. 327.375, F.S., requiring the owner of each vessel engaged in commercial parasailing to obtain – at a cost of \$50.00 – an annual license from the Fish and Wildlife Conservation Commission (FWC). The bill provides for licensing fees to be paid into the Marine Resources Conservation Trust Fund to allow FWC to recover costs associated with regulating commercial parasailing. The license is to be available for inspection whenever a vessel is engaged in commercial parasailing.

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<sup>1</sup> A knot is 1.0 nautical mile per hour and is equivalent to 1.15 statute miles per hour.

As a condition of licensing, the bill requires proof of insurance. This insurance is to be carried by the owner of any vessel engaged in commercial parasailing and the policy is to be obtained from an insurance carrier licensed in this state. The policy is to insure against any accident, loss, injury, property damage, or other casualty caused by or resulting from any commercial parasailing activity and is to carry coverage of at least \$750,000 per person and \$1.5 million per event. The deductible for the insurance policy may not exceed \$5,000 per event. The owner must have proof of such insurance available for inspection at the location wherever commercial parasailing is offered or provided for consideration and shall provide to each customer, upon request, the insurance carrier's name and address and the insurance policy number.

The bill also requires any person in charge or in command of a vessel engaged in commercial parasailing to meet the following requirements:

- a person may not operate a vessel engaged in commercial parasailing on the waters of this state unless he has a current and valid license issued by the United States Coast Guard (USCG) authorizing him to engage in carrying passengers for hire -- the license must be appropriate for the number of passengers carried and the displacement of the vessel, must be carried on the vessel, and must be available for inspection while commercial parasailing activities are being conducted;
- riders are only to be launched from and recovered to the vessel;
- no more than two persons may be tethered to the towing vessel and ascend above the water at any time; and
- all riders must wear an appropriate floatation device approved by the United States Coast Guard, other than an inflatable device, that is in serviceable condition and of the proper size.

The bill requires an observer, other than the operator, that:

- is eighteen years of age or older;
- is present in the vessel at all times to monitor the progress of any tethered parasail rider and parasail equipment;
- is attentive to the parasail rider or riders and parasail equipment; and
- has no other duties while the rider or riders are in the water or suspended above the water.

The bill also specifies that a person may not operate a vessel towing a commercial parasailing rider in the Atlantic Ocean or the Gulf of Mexico unless the vessel, towline, and rider are:

- 2,000 feet or more from the shore;
- 600 feet or more from an anchored vessel, a person in the water, a seawall, structure, bridge, power line, wharf, pier, dock, buoy, platform, piling, channel marker, or other similar object.

The bill prohibits commercial parasailing:

- on any body of water less than 2,000 feet in width in its narrowest dimension from shore to shore in the area where the parasailing activity is taking place;
- from sunset to sunrise;
- at all times during restricted visibility as defined in the navigation rules; and
- when there is a sustained wind speed of 20 knots or higher in the area of operation.

Certain equipment requirements are provided by the bill. These requirements are:

- towlines used for commercial parasailing may not exceed 600 feet in length;
- the vessel must have a launch platform;
- all riders are connected to the towline and secured in a seat harness attached to an ascending type of parachute;
- the vessel must be in full compliance with all requirements of the United States Coast Guard governing crewing and equipment carriage for passenger-carrying vessels as specified in the Code of Federal Regulations or as otherwise specified by the United States Coast Guard in the vessel's certificate of inspection; and

- the vessel must be equipped with a functional VHF marine transceiver.

C. SECTION DIRECTORY:

Section 1: Amends s. 327.02, F.S., providing definitions.

Section 2: Creates s. 327.375, F.S., providing regulation of commercial parasailing.

Section 3: Providing an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Commercial parasailing operators are required to obtain a license from FWC at a cost of \$50. The owners of commercial parasailing vessels are required to carry an insurance policy.

D. FISCAL COMMENTS:

The bill has an insignificant fiscal impact on state revenues and expenditures. A licensing fee of \$50 is established. This fee is to be deposited into the Marine Resources Conservation Trust Fund and is to be used to offset the cost of the licensing program. FWC estimates that between \$3,500 and \$6,000 will be generated from the license fees and that this will be sufficient to cover the cost of implementing the licensing program.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds, nor does it appear to reduce the authority that cities or counties have to raise revenues in the aggregate, nor does it appear to reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

No new rulemaking authority is granted to implement the provisions of this bill.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**D. STATEMENT OF THE SPONSOR**

No statement submitted.

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

On March 19, 2008, the Committee on Conservation & State Lands adopted a strike-all amendment and voted favorably to recommend the bill to the Environment & Natural Resources Council.

The strike-all amendment amends s. 327.02, F.S., defining the terms "commercial parasailing". Commercial parasailing means to provide or offer to provide, for consideration, any activity involving the towing of one or more persons tethered to the towing vessel such that they ascend above the water and remain suspended above the water while the vessel is underway.

The strike-all amendment creates s. 327.375, F.S., which provides:

- An insurance policy is to be carried by the owner of any vessel engaged in commercial parasailing and the policy is to be obtained from an insurance carrier licensed in this state. The policy is to insure against any accident, loss, injury, property damage, or other casualty caused by or resulting from any commercial parasailing activity and is to carry coverage of at least \$500,000 per person and \$1 million per event. The owner must have proof of such insurance available for inspection at the location wherever commercial parasailing is offered or provided for consideration and shall provide to each customer, upon request, the insurance carrier's name and address and the insurance policy number.
- Any person in charge or in command of a vessel engaged in commercial parasailing is to meet the following requirements:
  - a person may not operate a vessel engaged in commercial parasailing on the waters of this state unless he has a current and valid license issued by the United States Coast Guard (USCG) authorizing him to engage in carrying passengers for hire -- the license must be appropriate for the number of passengers carried and the displacement of the vessel, must be carried on the vessel, and must be available for inspection while commercial parasailing activities are being conducted;
  - riders are only to be launched from and recovered to the vessel;
  - no more than two persons may be tethered to the towing vessel and ascend above the water at any time; and
  - all riders must wear an appropriate floatation device approved by the United States Coast Guard, other than an inflatable device, that is in serviceable condition and of the proper size.
- An observer, other than the operator, is to:
  - be eighteen years of age or older;
  - be present in the vessel at all times to monitor the progress of any tethered parasail rider and parasail equipment;
  - be attentive to the parasail rider or riders and parasail equipment; and
  - 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 engaged in commercial parasailing unless:
  - an observer, other than the operator, 18 years of age or older is present in the vessel at all times to monitor the progress of any tethered parasail rider and parasail equipment;
  - all riders wear an appropriate floatation device approved by the United States Coast Guard, other than an inflatable device;
  - the vessel is in full compliance with all requirements of the United States Coast Guard governing crewing and equipment for passenger-carrying vessels;
  - no more than two persons may be tethered to the towing vessel and ascend above the water at any time; and
  - the vessel is equipped with a functional VHF marine transceiver.
- Commercial parasailing is prohibited from one-half hour after sunset to one-half hour before sunrise.
- Any person convicted of violating this section commits a misdemeanor of the second degree.

The strike-all amendment also repeals s. 327.50(1)(b), F.S., removing the mandatory personal floatation device requirement for persons under the age of six years when onboard a boat less than 26 feet in length. This removal places the more restrictive federal requirements for wearing personal floatation devices in force in all state waters. The current requirements are:

Florida<sup>2</sup>

- Children under 6 years of age.
- On any vessel less than 26 feet in length that is underway.
- USCG-approved Type I, II or III PFD.

Federal<sup>3</sup>

- Children under 13 years of age.
- On any vessel less than 16 feet in length.
- USCG-approved Type I, II or III PFD.

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<sup>2</sup> Chapter 327.50(1)(b), F.S.

<sup>3</sup> Code of Federal Regulations, Title 33: Navigation and Navigable Waters, PART 175—EQUIPMENT REQUIREMENTS, Subpart B—Personal Flotation Devices, § 175.15 Personal flotation devices required.