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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/10/2011	.	
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The Committee on Environmental Preservation and Conservation
(Jones) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 327.02, Florida Statutes, is amended to
read:

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

(1) "Airboat" means a vessel that is primarily designed for
use in shallow waters and powered by an internal combustion
engine with an airplane-type propeller mounted above the stern



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13 and used to push air across a set of rudders.

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

16 (3) "Boating accident" means a collision, accident, or
17 casualty involving a vessel in or upon, or entering into or
18 exiting from, the water, including capsizing, collision with
19 another vessel or object, sinking, personal injury, death,
20 disappearance of any person from on board under circumstances
21 that which indicate the possibility of death or injury, or
22 property damage to any vessel or dock.

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

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

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

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

34 (c) The person or persons remain suspended above the water
35 while the vessel is underway.

36 (6)-(5) "Commercial vessel" means:

37 (a) Any vessel primarily engaged in the taking or landing
38 of saltwater fish or saltwater products or freshwater fish or
39 freshwater products, or any vessel licensed pursuant to s.
40 379.361 from which commercial quantities of saltwater products
41 are harvested, from within and without the waters of this state



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42 for sale either to the consumer, retail dealer, or wholesale
43 dealer.

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

46 ~~(7)~~⁽⁶⁾ "Commission" means the Fish and Wildlife
47 Conservation Commission.

48 ~~(8)~~⁽⁷⁾ "Dealer" means any person authorized by the
49 Department of Revenue to buy, sell, resell, or otherwise
50 distribute vessels. Such person shall have a valid sales tax
51 certificate of registration issued by the Department of Revenue
52 and a valid commercial or occupational license required by any
53 county, municipality, or political subdivision of the state in
54 which the person operates.

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

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

60 ~~(11)~~⁽¹⁰⁾ "Floating structure" means a floating entity, with
61 or without accommodations built thereon, which is not primarily
62 used as a means of transportation on water but which serves
63 purposes or provides services typically associated with a
64 structure or other improvement to real property. The term
65 "floating structure" includes, but is not limited to, each
66 entity used as a residence, place of business or office with
67 public access, hotel or motel, restaurant or lounge, clubhouse,
68 meeting facility, storage or parking facility, mining platform,
69 dredge, dragline, or similar facility or entity represented as
70 such. Floating structures are expressly excluded from the



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71 definition of the term "vessel" provided in this section.
72 Incidental movement upon water or resting partially or entirely
73 on the bottom shall not, in and of itself, preclude an entity
74 from classification as a floating structure.

75 (12)~~(11)~~ "Florida Intracoastal Waterway" means the Atlantic
76 Intracoastal Waterway, the Georgia state line north of
77 Fernandina to Miami; the Port Canaveral lock and canal to the
78 Atlantic Intracoastal Waterway; the Atlantic Intracoastal
79 Waterway, Miami to Key West; the Okeechobee Waterway, Stuart to
80 Fort Myers; the St. Johns River, Jacksonville to Sanford; the
81 Gulf Intracoastal Waterway, Anclote to Fort Myers; the Gulf
82 Intracoastal Waterway, Carrabelle to Tampa Bay; Carrabelle to
83 Anclote open bay section (using Gulf of Mexico); the Gulf
84 Intracoastal Waterway, Carrabelle to the Alabama state line west
85 of Pensacola; and the Apalachicola, Chattahoochee, and Flint
86 Rivers in Florida.

87 (13)~~(12)~~ "Homemade vessel" means any vessel built after
88 October 31, 1972, for which a federal hull identification number
89 is not required to be assigned by the manufacturer pursuant to
90 federal law, or any vessel constructed or assembled prior to
91 November 1, 1972, by other than a licensed manufacturer for his
92 or her own use or the use of a specific person. A vessel
93 assembled from a manufacturer's kit or constructed from an
94 unfinished manufactured hull shall be considered to be a
95 homemade vessel if such a vessel is not required to have a hull
96 identification number assigned by the United States Coast Guard.
97 A rebuilt or reconstructed vessel shall in no event be construed
98 to be a homemade vessel.

99 (14)~~(13)~~ "Houseboat" means any vessel that ~~which~~ is used



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100 primarily as a residence for a minimum of 21 days during any 30-
101 day period, in a county of this state, and this residential use
102 of the vessel is to the preclusion of the use of the vessel as a
103 means of transportation.

104 ~~(15)-(14)~~ "Length" means the measurement from end to end
105 over the deck parallel to the centerline excluding sheer.

106 ~~(16)-(15)~~ "Lien" means a security interest that ~~which~~ is
107 reserved or created by a written agreement recorded with the
108 Department of Highway Safety and Motor Vehicles pursuant to s.
109 328.15 which secures payment or performance of an obligation and
110 is generally valid against third parties.

111 ~~(17)-(16)~~ "Lienholder" means a person holding a security
112 interest in a vessel, which interest is recorded with the
113 Department of Highway Safety and Motor Vehicles pursuant to s.
114 328.15.

115 ~~(18)-(17)~~ "Live-aboard vessel" means:

116 (a) Any vessel used solely as a residence and not for
117 navigation;

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

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

122
123 A commercial fishing boat is expressly excluded from the
124 term "live-aboard vessel."

125 ~~(19)-(18)~~ "Livery vessel" means any vessel leased, rented,
126 or chartered to another for consideration.

127 ~~(20)-(19)~~ "Manufactured vessel" means any vessel built after
128 October 31, 1972, for which a federal hull identification number



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129 is required pursuant to federal law, or any vessel constructed
130 or assembled prior to November 1, 1972, by a duly licensed
131 manufacturer.

132 (21)~~(20)~~ "Marina" means a licensed commercial facility that
133 ~~which~~ provides secured public moorings or dry storage for
134 vessels on a leased basis. A commercial establishment authorized
135 by a licensed vessel manufacturer as a dealership shall be
136 considered a marina for nonjudicial sale purposes.

137 (22)~~(21)~~ "Marine sanitation device" means any equipment
138 other than a toilet, for installation on board a vessel, which
139 is designed to receive, retain, treat, or discharge sewage, and
140 any process to treat such sewage. Marine sanitation device Types
141 I, II, and III shall be defined as provided in 33 C.F.R. part
142 159.

143 (23)~~(22)~~ "Marker" means any channel mark or other aid to
144 navigation, information or regulatory mark, isolated danger
145 mark, safe water mark, special mark, inland waters obstruction
146 mark, or mooring buoy in, on, or over the waters of the state or
147 the shores thereof, and includes, but is not limited to, a sign,
148 beacon, buoy, or light.

149 (24)~~(23)~~ "Motorboat" means any vessel equipped with
150 machinery for propulsion, irrespective of whether the propulsion
151 machinery is in actual operation.

152 (25)~~(24)~~ "Muffler" means an automotive-style sound-
153 suppression device or system designed to effectively abate the
154 sound of exhaust gases emitted from an internal combustion
155 engine and prevent excessive sound when installed on such an
156 engine.

157 (26)~~(25)~~ "Navigation rules" means the International



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158 Navigational Rules Act of 1977, 33 U.S.C. appendix following s.
159 1602, as amended, including the annexes thereto, for vessels on
160 waters outside of established navigational lines of demarcation
161 as specified in 33 C.F.R. part 80 or the Inland Navigational
162 Rules Act of 1980, 33 U.S.C. ss. 2001 et seq., as amended,
163 including the annexes thereto, for vessels on all waters not
164 outside of such lines of demarcation.

165 ~~(27)~~~~(26)~~ "Nonresident" means a citizen of the United States
166 who has not established residence in this state and has not
167 continuously resided in this state for 1 year and in one county
168 for the 6 months immediately preceding the initiation of a
169 vessel titling or registration action.

170 ~~(28)~~~~(27)~~ "Operate" means to be in charge of or in command
171 of or in actual physical control of a vessel upon the waters of
172 this state, or to exercise control over or to have
173 responsibility for a vessel's navigation or safety while the
174 vessel is underway upon the waters of this state, or to control
175 or steer a vessel being towed by another vessel upon the waters
176 of the state.

177 ~~(29)~~~~(28)~~ "Owner" means a person, other than a lienholder,
178 having the property in or title to a vessel. The term includes a
179 person entitled to the use or possession of a vessel subject to
180 an interest in another person, reserved or created by agreement
181 and securing payment of performance of an obligation, but the
182 term excludes a lessee under a lease not intended as security.

183 ~~(30)~~~~(29)~~ "Person" means an individual, partnership, firm,
184 corporation, association, or other entity.

185 ~~(31)~~~~(30)~~ "Personal watercraft" means a vessel less than 16
186 feet in length which uses an inboard motor powering a water jet



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187 pump, as its primary source of motive power and which is
188 designed to be operated by a person sitting, standing, or
189 kneeling on the vessel, rather than in the conventional manner
190 of sitting or standing inside the vessel.

191 (32)~~(31)~~ "Portable toilet" means a device consisting of a
192 lid, seat, containment vessel, and support structure which ~~that~~
193 is specifically designed to receive, retain, and discharge human
194 waste and which ~~that~~ is capable of being removed from a vessel
195 by hand.

196 (33)~~(32)~~ "Prohibited activity" means such activity as will
197 impede or disturb navigation or creates a safety hazard on
198 waterways of this state.

199 (34)~~(33)~~ "Racing shell," "rowing scull," or "racing kayak"
200 means a manually propelled vessel that ~~which~~ is recognized by
201 national or international racing associations for use in
202 competitive racing and in which all occupants, with the
203 exception of a coxswain, if one is provided, row, scull, or
204 paddle, and that ~~which~~ is not designed to carry and does not
205 carry any equipment not solely for competitive racing.

206 (35)~~(34)~~ "Recreational vessel" means any vessel:

207 (a) Manufactured and used primarily for noncommercial
208 purposes; or

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

211 (36)~~(35)~~ "Registration" means a state operating license on
212 a vessel which is issued with an identifying number, an annual
213 certificate of registration, and a decal designating the year
214 for which a registration fee is paid.

215 (37)~~(36)~~ "Resident" means a citizen of the United States



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216 who has established residence in this state and has continuously
217 resided in this state for 1 year and in one county for the 6
218 months immediately preceding the initiation of a vessel titling
219 or registration action.

220 (38)~~(37)~~ "Sailboat" means any vessel whose sole source of
221 propulsion is the wind.

222 (39) "Support system" means a device used to tether,
223 connect, or otherwise suspend a person under the canopy.

224 (40) "Sustained wind speed" means a wind speed determined
225 by averaging the observed wind speed rounded to the nearest
226 whole knot over a 2-minute period.

227 (41)~~(38)~~ "Unclaimed vessel" means any undocumented vessel,
228 including its machinery, rigging, and accessories, which is in
229 the physical possession of any marina, garage, or repair shop
230 for repairs, improvements, or other work with the knowledge of
231 the vessel owner and for which the costs of such services have
232 been unpaid for a period in excess of 90 days from the date
233 written notice of the completed work is given by the marina,
234 garage, or repair shop to the vessel owner.

235 (42)~~(39)~~ "Vessel" is synonymous with boat as referenced in
236 s. 1(b), Art. VII of the State Constitution and includes every
237 description of watercraft, barge, and airboat, other than a
238 seaplane on the water, used or capable of being used as a means
239 of transportation on water.

240 (43)~~(40)~~ "Waters of this state" means any navigable waters
241 of the United States within the territorial limits of this
242 state, and the marginal sea adjacent to this state and the high
243 seas when navigated as a part of a journey or ride to or from
244 the shore of this state, and all the inland lakes, rivers, and



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245 canals under the jurisdiction of this state.

246 Section 2. Section 327.375, Florida Statutes, is created to
247 read:

248 327.375 Commercial parasailing.-

249 (1) The owner of a vessel engaged in commercial parasailing
250 may not offer or provide for consideration any parasailing
251 activity unless the owner first obtains and carries in full
252 force and effect an insurance policy, from an insurance carrier
253 licensed in this state, or approved by the Florida Department of
254 Insurance, insuring against any accident, loss, injury, property
255 damage, death, or other casualty caused by or resulting from any
256 commercial parasailing activity. The insurance policy must
257 provide coverage of at least \$1 million per person, \$ 2 million
258 per event. Proof of insurance must be available for inspection
259 at the location where commercial parasailing is offered or
260 provided for consideration and each customer who requests it
261 shall be provided with the insurance carrier's name and address
262 and the insurance policy number.

263 (2) A person engaged in commercial parasailing must meet
264 the following requirements:

265 (a) Commercial parasail operators shall launch riders only
266 from and recover riders only to the vessel.

267 (b) A person may not operate a vessel engaged in commercial
268 parasailing on the waters of this state unless the person has a
269 current and valid license issued by the United States Coast
270 Guard authorizing that person to engage in carrying passengers
271 for hire. The license must be appropriate for the number of
272 passengers carried and the displacement of the vessel. The
273 license must be carried on the vessel and be available for



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274 inspection while commercial parasailing activities are
275 conducted.

276 (c) A person may not operate a vessel for commercial
277 parasailing unless an observer 18 years of age or older is
278 present in the vessel at all times to monitor the progress of
279 any tethered parasail rider and parasail equipment. The observer
280 may not be a customer, must be attentive to the parasail rider
281 or riders and equipment, and may not have any other duties while
282 the rider or riders are in the water or suspended above the
283 water.

284 (d) A person may not operate any vessel engaged in
285 commercial parasailing unless:

286 1. All riders wear an appropriate floatation device
287 approved by the United States Coast Guard, other than an
288 inflatable device, which is in serviceable condition and of the
289 proper size;

290 2. The vessel is in full compliance with all requirements
291 of the United States Coast Guard governing crewing and equipment
292 carriage for passenger-carrying vessels as specified in the Code
293 of Federal Regulations or as otherwise specified by the United
294 States Coast Guard in the vessel's certificate of inspection;
295 and

296 3. The vessel is equipped with a functional VHF marine
297 transceiver and a separate electronic device capable of access
298 to National Weather Service forecasts and current weather
299 conditions.

300 (e) No more than three persons may be tethered to the
301 towing vessel and ascend above the water at any time.

302 (f) A person may not operate a vessel towing a commercial



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303 parasailing rider on any coastal waters of the state less than
304 1,800 feet from the shore. This restriction applies to the
305 entire commercial parasailing apparatus, including the vessel,
306 towline, and rider.

307 (g) A person may not operate a vessel towing a commercial
308 parasailing rider so that the vessel, towline, or rider comes
309 within 400 feet of:

- 310 1. An anchored vessel;
311 2. A person in the water; or
312 3. A structure, bridge, power line, wharf, pier, dock,
313 platform, piling, marker, or other similar fixed objects.

314 (h) A person may not operate any vessel towing a parasail
315 or engage in parasailing within 100 feet of the marked channel
316 of the Florida Intracoastal Waterway.

317 (i) Commercial parasailing is prohibited when the current
318 conditions or those forecasted by the National Weather Service
319 include a sustained wind speed of over 20 mph in the area of
320 operation, rain or heavy fog that results in reduced visibility
321 of less than 0.5 miles, or a known lightning storm within 7
322 miles of the parasailing area.

323 (j) The vessel captain shall use all available means to
324 determine prevailing and forecasted weather conditions and
325 record this information in a weather log each time passengers
326 are to be taken out on the water. The weather log must be
327 available for inspection at all times at the place of business.

328 (k) Towlines used for commercial parasailing must be rated
329 for a tensile strength that exceeds 4,800 pounds, must be
330 braided, and a low-stretch type and may not exceed 500 feet in
331 length.



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332 (1) Each passenger and parasail rider must be given a
333 safety briefing before embarking or before the parasail activity
334 commences. This briefing must include a description of the
335 equipment, the parasail activity, inherent risks, and
336 instruction on how to safely evacuate from the passenger support
337 during a water landing.

338 (m) A person operating a vessel for commercial parasailing
339 may not engage in parasailing, or any similar activity at any
340 time between the hours of one-half hour after sunset to one-half
341 hour before sunrise.

342 (3) A person or operator who violates this section commits
343 a misdemeanor of the second degree, punishable as provided in s.
344 775.082 or s. 775.083.

345 Section 3. Paragraph (d) of subsection (5) of section
346 320.08, Florida Statutes, is amended to read:

347 320.08 License taxes.—Except as otherwise provided herein,
348 there are hereby levied and imposed annual license taxes for the
349 operation of motor vehicles, mopeds, motorized bicycles as
350 defined in s. 316.003(2), tri-vehicles as defined in s. 316.003,
351 and mobile homes, as defined in s. 320.01, which shall be paid
352 to and collected by the department or its agent upon the
353 registration or renewal of registration of the following:

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

356 (d) A wrecker, as defined in s. 320.01(40), which is used
357 to tow a vessel as defined in s. 327.02(43) ~~s. 327.02(39)~~, a
358 disabled, abandoned, stolen-recovered, or impounded motor
359 vehicle as defined in s. 320.01(38), or a replacement motor
360 vehicle as defined in s. 320.01(39): \$41 flat, of which \$11



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361 shall be deposited into the General Revenue Fund.

362 Section 4. Subsection (1) of section 327.391, Florida
363 Statutes, is amended to read:

364 327.391 Airboats regulated.—

365 (1) The exhaust of every internal combustion engine used on
366 any airboat operated on the waters of this state shall be
367 provided with an automotive-style factory muffler, underwater
368 exhaust, or other manufactured device capable of adequately
369 muffling the sound of the exhaust of the engine as described in
370 s. 327.02(25) ~~s. 327.02(24)~~. The use of cutouts or flex pipe as
371 the sole source of muffling is prohibited, except as provided in
372 subsection (4). Any person who violates this subsection commits
373 a noncriminal infraction punishable as provided in s. 327.73(1).

374 Section 5. Subsection (4) of section 328.17, Florida
375 Statutes, is amended to read:

376 328.17 Nonjudicial sale of vessels.—

377 (4) A marina, as defined in s. 327.02(21) ~~s. 327.02(20)~~,
378 shall have:

379 (a) A possessory lien upon any vessel for storage fees,
380 dockage fees, repairs, improvements, or other work-related
381 storage charges, and for expenses necessary for preservation of
382 the vessel or expenses reasonably incurred in the sale or other
383 disposition of the vessel. The possessory lien shall attach as
384 of the date the vessel is brought to the marina or as of the
385 date the vessel first occupies rental space at the marina
386 facility.

387 (b) A possessory lien upon any vessel in a wrecked, junked,
388 or substantially dismantled condition, which has been left
389 abandoned at a marina, for expenses reasonably incurred in the



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390 removal and disposal of the vessel. The possessory lien shall
391 attach as of the date the vessel arrives at the marina or as of
392 the date the vessel first occupies rental space at the marina
393 facility. If the funds recovered from the sale of the vessel, or
394 from the scrap or salvage value of the vessel, are insufficient
395 to cover the expenses reasonably incurred by the marina in
396 removing and disposing of the vessel, all costs in excess of
397 recovery shall be recoverable against the owner of the vessel.
398 For a vessel damaged as a result of a named storm, the
399 provisions of this paragraph shall be suspended for 60 days
400 following the date the vessel is damaged in the named storm. The
401 operation of the provisions specified in this paragraph run
402 concurrently with, and do not extend, the 60-day notice periods
403 provided in subsections (5) and (7).

404 Section 6. Subsection (2) of section 342.07, Florida
405 Statutes, is amended to read:

406 342.07 Recreational and commercial working waterfronts;
407 legislative findings; definitions.—

408 (2) As used in this section, the term "recreational and
409 commercial working waterfront" means a parcel or parcels of real
410 property which ~~that~~ provide access for water-dependent
411 commercial activities, including hotels and motels as defined in
412 s. 509.242(1), or provide access for the public to the navigable
413 waters of the state. Recreational and commercial working
414 waterfronts require direct access to or a location on, over, or
415 adjacent to a navigable body of water. The term includes water-
416 dependent facilities that are open to the public and offer
417 public access by vessels to the waters of the state or that are
418 support facilities for recreational, commercial, research, or



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419 governmental vessels. These facilities include public lodging
420 establishments, docks, wharfs, lifts, wet and dry marinas, boat
421 ramps, boat hauling and repair facilities, commercial fishing
422 facilities, boat construction facilities, and other support
423 structures over the water. As used in this section, the term
424 "vessel" has the same meaning as in s. 327.02(43) ~~s. 327.02(39)~~.
425 Seaports are excluded from the definition.

426 Section 7. Paragraph (b) of subsection (1) of section
427 713.78, Florida Statutes, is amended to read:

428 713.78 Liens for recovering, towing, or storing vehicles
429 and vessels.-

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

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

435 Section 8. Paragraph (b) of subsection (1) of section
436 715.07, Florida Statutes, is amended to read:

437 715.07 Vehicles or vessels parked on private property;
438 towing.-

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

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

444 Section 9. This act shall take effect July 1, 2011.

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===== T I T L E A M E N D M E N T =====



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448 And the title is amended as follows:

449 Delete everything before the enacting clause
450 and insert:

451 A bill to be entitled

452 An act relating to commercial parasailing ; amending
453 s.327.02, F.S.; requiring the owner of a vessel engaged in
454 commercial parasailing to obtain and carry an insurance policy;
455 providing minimum coverage for the insurance policy; providing
456 requirements for proof of insurance; specifying the insurance
457 information that must be provided to each rider; providing for
458 the launch and recovery of riders from a towing vessel;
459 requiring a person engaged in operating a vessel for commercial
460 parasailing to have certain licenses; requiring certain
461 equipment; prohibiting commercial parasailing in certain areas;
462 under certain weather conditions, and during certain hours;
463 requiring a safety briefing for passengers and parasail riders;
464 providing penalties; amending ss. 320.08,
465 327.391, 328.17, 342.07, 713.78, and 715.07, F.S.; conforming
466 cross-references to changes made by the act; providing an
467 effective date.