

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

BILL: CS/SB 392

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Jones

SUBJECT: Commercial Parasailing

DATE: March 11, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	EP	Fav/CS
2.			BI	
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

The CS provides standards for commercial parasailing and revises definitions related to the new standards. The bill provides requirements for conducting parasailing, specifies gear requirements and outlines locations and weather conditions in which commercial parasailing is prohibited. The CS requires the owner of a vessel engaged in commercial parasailing to carry liability insurance and specifies the minimum amount of coverage required. The CS also provides for a criminal penalty for violations of the commercial parasailing provisions.

The CS amends ss. 320.08, 327.02, 327.391, 328.17, 342.07, 713.78, and 715.07, and creates s. 327.375 of the Florida Statutes.

II. Present Situation:

The Florida Fish and Wildlife Conservation Commission ¹(FWC) estimates that there are 70 to 120 active commercial parasail operators in Florida. Most parasail businesses operate along the Atlantic Ocean and Gulf of Mexico coastlines. Presently, no state law specifically regulates

¹ Florida Fish and Wildlife Conservation Commission’s staff analysis, SB 0392, dated 2/17/11.

commercial parasailing activities. Section 327.37, F.S., references parasailing and provides general guidelines for parasailing that include:

- requiring the person operating the vessel that is towing a person involved in parasailing observe the progress of the person being towed by utilizing a designated observer;
- prohibits parasailing between the hours from one-half hour after sunset to one-half hour before sunrise;
- requires wearing a personal flotation device;
- prohibits operating any vessel in such a way as to cause the parasailer to collide or strike against or be likely to collide or strike against any vessel, bridge, wharf, pier, dock, buoy, platform, piling, or other similar objects specified in statute;
- prohibits operating any vessel towing a parasail or engaged in parasailing within 100 feet of the marked channel of the Florida Intracoastal Waterway; and
- other requirements outlined in statute.

A violation of section 327.37 F.S., is a noncriminal infraction specified in section 327.73, F.S., which in part states:

“Any person cited for a violation of any such provision shall be deemed to be charged with a noncriminal infraction, shall be cited for such an infraction, and shall be cited to appear before the county court. The civil penalty for any such infraction is \$50, except as otherwise provided in this section. Any person who fails to appear or otherwise properly respond to a uniform boating citation shall, in addition to the charge relating to the violation of the boating laws of this state, be charged with the offense of failing to respond to such citation and, upon conviction, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, F.S. A written warning to this effect shall be provided at the time such uniform boating citation is issued.”

According to the FWC, the Federal Aviation Administration (FAA) currently regulates parasails as “kites,” because a parasail is a parachute held aloft by wind resulting from the movement of the boat towing it. The FAA regulates kites only to the extent that they are objects in airspace. The regulations govern the distance from ground kites can fly, acceptable operating times, cloud cover limitations, ground visibility requirements, and airspace monitoring notice requirements. If needed, parasail operators may obtain a Certificate of Authorization or a waiver from FAA that allows them to deviate from the above mentioned regulations (e.g. visibility less than 2 miles, wind speed greater than 20 mph, restricted airspace, or less than 5 miles from an airport).

If proposed parasail operations are conducted within 5 miles of an airport, the holder of a Certificate of Waiver or Authorization shall contact the Air Traffic Control tower at least one week prior to conducting parasail operations for the purposes of providing real-time notice of activities. The notice must include the proposed area of operation, duration of activity, and altitude of parasail.

The US Coast Guard (USCG) regulates vessels towing parasails as commercial passenger vessels when operated on navigable waters. Navigable waters include oceans and navigable coastal and inland waters, lakes, rivers, and streams. The USCG initiates vessel inspections of all

commercial passenger vessels based upon vessel type, number of passengers, and operator licensing.

According to the FWC, a person operating a vessel used for commercial parasailing on the waters of the State is required to have a current and valid license issued by the USCG authorizing that person to engage in carrying passengers for hire. The license must be carried on the vessel and be available for inspection while commercial parasailing activities are conducted.

Parasailing accidents have the potential for severe consequences. From 2001-2011, seven parasailing accidents occurred in Florida, resulting in four fatalities. The most recent reported parasailing accident that resulted in a fatality occurred in Pinellas County in September 2010, when a towline snapped. The accident victims made a water landing, but then the parasail re-inflated and dragged them toward the beach. One subject was able to disconnect from the parasail, but the other victim was dragged onto the beach where she collided with a volleyball net post. She died as a result of her injuries.

Based on FWC reports, the majority of accidents are related to towline separations as a result of poor weather and/or equipment failures.

Florida's Sunrise Act

Section 11.62, F.S., provides guiding principles for the establishment of new regulatory programs for professions and occupations. Subsection (3) provides that in determining whether to regulate a profession or occupation, the Legislature shall consider certain factors, including: whether the unregulated practice of the profession or occupation will substantially harm or endanger the public health, safety, or welfare; whether the practice of the profession or occupation requires specialized skill or training; whether the regulation will have an unreasonable effect on job creation or job retention in the state; and whether the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers, will be favorable.

Subsection (4) of s. 11.62, F.S., provides that the proponents of legislation that provides for the regulation of a profession or occupation not already subject to state regulation shall provide, *upon request*, certain information in writing to the state agency that is proposed to have jurisdiction over the regulation and to the legislative committees to which the legislation is referred. Similarly, subsection (5) provides that the agency shall provide the Legislature with information concerning the effect of proposed legislation that provides for new regulation of a profession or occupation, including the resources necessary to implement and enforce the proposed regulation.

III. Effect of Proposed Changes:

Section 1 amends s. 327.02, F.S., to define commercial parasailing as providing or offering to provide, for payment, 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.

It defines the term “support system” which is part of the equipment used in parasailing. It also provides a standard definition for “sustained wind speed.”

Section 2 creates s. 327.375, F.S., to provide the following guidelines for commercial parasailing:

- the owner of a vessel engaged in commercial parasailing is required to carry insurance against an accident, loss, injury, property damage, or other casualty caused by or resulting from the commercial parasailing activity;
- the policy shall provide minimum coverage of \$1 million per person and \$2 million per event;
- commercial parasail operators may only be able to launch riders from and recover riders to the vessel, and not from land or a dock;
- a person engaged in commercial parasailing must have a valid license issued by the USCG authorizing that person to engage in carrying passengers for hire;
- a person is not permitted to operate a vessel for commercial parasailing unless an observer 18 years or older, who is not a customer and has no other duties, is present in the vessel at all times to monitor the airborne parasail rider and parachute;
- a person may not operate any vessel engaged in parasailing unless all riders wear a USCG approved personal flotation device that is in serviceable condition and of the proper size;
- the vessel must be in full compliance with all USCG requirements related to crew and equipment including a functional VHF marine transceiver and a separate electronic device capable of access to National Weather Service forecasts and current weather conditions;
- no more than three persons may be permitted to be tethered to the towing vessel and ascend above the water at any time;
- prohibits commercial parasail activity on any coastal waters of the state less than 1,800 feet from the shore, including the vessel, towline, and rider;
- prohibits a person from operating a vessel towing a commercial parasailing rider so that the vessel, towline, or riders comes within 400 feet of an anchored vessel; a person in the water; or a structure, bridge, power line, wharf, pier, dock, buoy, platform, piling, marker, or other similar fixed object;
- prohibits commercial parasailing within 100 feet of the marked channel of the Florida Intracoastal Waterway;
- prohibits commercial parasailing when current sustained winds or forecasted sustained winds of 20 mph or higher are present in the area of operation;
- prohibits commercial parasailing during reduced visibility of 0.5 miles;
- prohibits commercial parasailing within 7 miles of a known lightning storm;
- requires the vessel captain to maintain a weather log and record the prevailing and forecasted weather conditions each time passengers are taken out on the water;
- towlines would have to be rated for a tensile strength that exceeds 4800 pounds;
- towlines used for commercial parasailing would not be permitted to exceed 500 feet in length.

Each passenger and parasail rider would have to be given a safety briefing before embarking or before the parasail activities commence. The CS provides for the safety briefing to include a description of the equipment, the parasail activity, inherent risks, and instruction on how to safely evacuate from the passenger support during a water landing. A person operating a vessel for commercial parasailing may not engage in parasailing activities one half hour after sunset to one half hour before sunrise.

Subsection (4) of s. 327.375, F.S., provides that a violation of any of the commercial parasailing provisions in this CS would be a second degree misdemeanor punishable as provided in s. 775.082, F.S., or s. 775.083, F.S. Misdemeanors of the second degree are punishable by imprisonment of up to 60 days and/or a fine of up to \$500.

Section 3 amends s. 320.08, F.S., to correct a cross-reference.

Section 4 amends s. 327.391, F.S., to correct a cross-reference.

Section 5 amends s. 328.17, F.S., to correct a cross-reference.

Section 6 amends s. 342.07, F.S., to correct a cross-reference.

Section 7 amends s. 713.78, F.S., to correct a cross-reference.

Section 8 amends s. 715.07, F.S., to correct a cross-reference.

Section 9 provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

According to insurance industry experts, commercial parasailing operators in Florida will incur additional costs for acquiring the necessary insurance coverage. It is difficult to estimate those overall costs because they will vary with each operator's claims history and current coverage amounts. The approximate cost to the operator for \$1 million per person and \$2 million per event is between \$8-11,000 annually.

Some operators may have to purchase a different towline. Towlines that meet the minimum specifications described in the CS range from approximately \$500 to \$800.

Additional operating costs should be minimal because most operators are already complying on a voluntary basis with most of the regulations contained in the CS.

These additional regulations may reduce tort liability of commercial parasail operators.

C. Government Sector Impact:

According to the FWC, there may be a minor fiscal impact to the Commission from costs associated with providing information to current commercial parasailing operators and responding to inquiries related to the new regulations and how operators may come into compliance. These costs can be absorbed by FWC's current budget. However if the CS has its intended effect, it is possible that accident investigations may decline, thus reducing FWC's law enforcement work load and costs.

There is no known fiscal impact on other state agencies.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by the Committee on Environmental Preservation and Conservation on March 10, 2011:

Revises requirements to parasailing gear for industry consistency. The changes include removing the definition for "quick release" and "gondola system." The CS removes the section naming the bill the "Alejandra White Act." The CS specifies that the boat is equipped with a separate electronic device in addition to a functional VHF marine transceiver to monitor the weather conditions forecasted by the National Weather Service. The CS increases the number of people that may be tethered to a towing vessel

from two to three persons. It revises the insurance policy coverage requirements to \$1 million per person and \$2 million per event. It specifies that the new requirements apply to coastal not inland waters. The CS clarifies that other similar objects mean “fixed” objects. It amends the wind speed measurement from 20 knots or higher to 20 mph or higher. The CS shortens the allowed towline from 800 feet to 500 feet.

B. Amendments

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
