

By Senator Jones

13-00501-11

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1                   A bill to be entitled  
2           An act relating to commercial parasailing; amending s.  
3           327.02, F.S.; providing definitions; creating s.  
4           327.375, F.S.; providing a short title; requiring the  
5           owner of a vessel engaged in commercial parasailing to  
6           obtain and carry an insurance policy; providing  
7           minimum coverage for the insurance policy; providing  
8           requirements for proof of insurance; specifying the  
9           insurance information that must be provided to each  
10          rider; providing for the launch and recovery of riders  
11          from a towing vessel; requiring a person engaged in  
12          operating a vessel for commercial parasailing to have  
13          certain licenses; requiring certain equipment;  
14          prohibiting commercial parasailing in certain areas,  
15          under certain weather conditions, and during certain  
16          hours; requiring a safety briefing for passengers and  
17          parasail riders; providing penalties; amending ss.  
18          320.08, 327.391, 328.17, 342.07, 713.78, and 715.07,  
19          F.S.; conforming cross-references to changes made by  
20          the act; providing an effective date.

21  
22 Be It Enacted by the Legislature of the State of Florida:

23  
24           Section 1. Section 327.02, Florida Statutes, is amended to  
25 read:

26           327.02 Definitions of terms used in this chapter and in  
27 chapter 328.—As used in this chapter and in chapter 328, unless  
28 the context clearly requires a different meaning, the term:

29           (1) "Airboat" means a vessel that is primarily designed for

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30 use in shallow waters and powered by an internal combustion  
31 engine with an airplane-type propeller mounted above the stern  
32 and used to push air across a set of rudders.

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

35 (3) "Boating accident" means a collision, accident, or  
36 casualty involving a vessel in or upon, or entering into or  
37 exiting from, the water, including capsizing, collision with  
38 another vessel or object, sinking, personal injury, death,  
39 disappearance of any person from on board under circumstances  
40 that ~~which~~ indicate the possibility of death or injury, or  
41 property damage to any vessel or dock.

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

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

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

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

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

55 (6)~~(5)~~ "Commercial vessel" means:

56 (a) Any vessel primarily engaged in the taking or landing  
57 of saltwater fish or saltwater products or freshwater fish or  
58 freshwater products, or any vessel licensed pursuant to s.

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59 379.361 from which commercial quantities of saltwater products  
60 are harvested, from within and without the waters of this state  
61 for sale either to the consumer, retail dealer, or wholesale  
62 dealer.

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

65 (7)~~(6)~~ "Commission" means the Fish and Wildlife  
66 Conservation Commission.

67 (8)~~(7)~~ "Dealer" means any person authorized by the  
68 Department of Revenue to buy, sell, resell, or otherwise  
69 distribute vessels. Such person shall have a valid sales tax  
70 certificate of registration issued by the Department of Revenue  
71 and a valid commercial or occupational license required by any  
72 county, municipality, or political subdivision of the state in  
73 which the person operates.

74 (9)~~(8)~~ "Division" means the Division of Law Enforcement of  
75 the Fish and Wildlife Conservation Commission.

76 (10)~~(9)~~ "Documented vessel" means a vessel for which a  
77 valid certificate of documentation is outstanding pursuant to 46  
78 C.F.R. part 67.

79 (11)~~(10)~~ "Floating structure" means a floating entity, with  
80 or without accommodations built thereon, which is not primarily  
81 used as a means of transportation on water but which serves  
82 purposes or provides services typically associated with a  
83 structure or other improvement to real property. The term  
84 "floating structure" includes, but is not limited to, each  
85 entity used as a residence, place of business or office with  
86 public access, hotel or motel, restaurant or lounge, clubhouse,  
87 meeting facility, storage or parking facility, mining platform,

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88 dredge, dragline, or similar facility or entity represented as  
89 such. Floating structures are expressly excluded from the  
90 definition of the term "vessel" provided in this section.

91 Incidental movement upon water or resting partially or entirely  
92 on the bottom shall not, in and of itself, preclude an entity  
93 from classification as a floating structure.

94 (12)~~(11)~~ "Florida Intracoastal Waterway" means the Atlantic  
95 Intracoastal Waterway, the Georgia state line north of  
96 Fernandina to Miami; the Port Canaveral lock and canal to the  
97 Atlantic Intracoastal Waterway; the Atlantic Intracoastal  
98 Waterway, Miami to Key West; the Okeechobee Waterway, Stuart to  
99 Fort Myers; the St. Johns River, Jacksonville to Sanford; the  
100 Gulf Intracoastal Waterway, Anclote to Fort Myers; the Gulf  
101 Intracoastal Waterway, Carrabelle to Tampa Bay; Carrabelle to  
102 Anclote open bay section (using Gulf of Mexico); the Gulf  
103 Intracoastal Waterway, Carrabelle to the Alabama state line west  
104 of Pensacola; and the Apalachicola, Chattahoochee, and Flint  
105 Rivers in Florida.

106 (13)~~(12)~~ "Homemade vessel" means any vessel built after  
107 October 31, 1972, for which a federal hull identification number  
108 is not required to be assigned by the manufacturer pursuant to  
109 federal law, or any vessel constructed or assembled prior to  
110 November 1, 1972, by other than a licensed manufacturer for his  
111 or her own use or the use of a specific person. A vessel  
112 assembled from a manufacturer's kit or constructed from an  
113 unfinished manufactured hull shall be considered to be a  
114 homemade vessel if such a vessel is not required to have a hull  
115 identification number assigned by the United States Coast Guard.  
116 A rebuilt or reconstructed vessel shall in no event be construed

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117 to be a homemade vessel.

118 (14)~~(13)~~ "Houseboat" means any vessel that ~~which~~ is used  
119 primarily as a residence for a minimum of 21 days during any 30-  
120 day period, in a county of this state, and this residential use  
121 of the vessel is to the preclusion of the use of the vessel as a  
122 means of transportation.

123 (15)~~(14)~~ "Length" means the measurement from end to end  
124 over the deck parallel to the centerline excluding sheer.

125 (16)~~(15)~~ "Lien" means a security interest that ~~which~~ is  
126 reserved or created by a written agreement recorded with the  
127 Department of Highway Safety and Motor Vehicles pursuant to s.  
128 328.15 which secures payment or performance of an obligation and  
129 is generally valid against third parties.

130 (17)~~(16)~~ "Lienholder" means a person holding a security  
131 interest in a vessel, which interest is recorded with the  
132 Department of Highway Safety and Motor Vehicles pursuant to s.  
133 328.15.

134 (18)~~(17)~~ "Live-aboard vessel" means:

135 (a) Any vessel used solely as a residence and not for  
136 navigation;

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

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

141  
142 A commercial fishing boat is expressly excluded from the term  
143 "live-aboard vessel."

144 (19)~~(18)~~ "Livery vessel" means any vessel leased, rented,  
145 or chartered to another for consideration.

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146        (20)~~(19)~~ "Manufactured vessel" means any vessel built after  
147        October 31, 1972, for which a federal hull identification number  
148        is required pursuant to federal law, or any vessel constructed  
149        or assembled prior to November 1, 1972, by a duly licensed  
150        manufacturer.

151        (21)~~(20)~~ "Marina" means a licensed commercial facility that  
152        ~~which~~ provides secured public moorings or dry storage for  
153        vessels on a leased basis. A commercial establishment authorized  
154        by a licensed vessel manufacturer as a dealership shall be  
155        considered a marina for nonjudicial sale purposes.

156        (22)~~(21)~~ "Marine sanitation device" means any equipment  
157        other than a toilet, for installation on board a vessel, which  
158        is designed to receive, retain, treat, or discharge sewage, and  
159        any process to treat such sewage. Marine sanitation device Types  
160        I, II, and III shall be defined as provided in 33 C.F.R. part  
161        159.

162        (23)~~(22)~~ "Marker" means any channel mark or other aid to  
163        navigation, information or regulatory mark, isolated danger  
164        mark, safe water mark, special mark, inland waters obstruction  
165        mark, or mooring buoy in, on, or over the waters of the state or  
166        the shores thereof, and includes, but is not limited to, a sign,  
167        beacon, buoy, or light.

168        (24)~~(23)~~ "Motorboat" means any vessel equipped with  
169        machinery for propulsion, irrespective of whether the propulsion  
170        machinery is in actual operation.

171        (25)~~(24)~~ "Muffler" means an automotive-style sound-  
172        suppression device or system designed to effectively abate the  
173        sound of exhaust gases emitted from an internal combustion  
174        engine and prevent excessive sound when installed on such an

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175 engine.

176 (26)~~(25)~~ "Navigation rules" means the International  
177 Navigational Rules Act of 1977, 33 U.S.C. appendix following s.  
178 1602, as amended, including the annexes thereto, for vessels on  
179 waters outside of established navigational lines of demarcation  
180 as specified in 33 C.F.R. part 80 or the Inland Navigational  
181 Rules Act of 1980, 33 U.S.C. ss. 2001 et seq., as amended,  
182 including the annexes thereto, for vessels on all waters not  
183 outside of such lines of demarcation.

184 (27)~~(26)~~ "Nonresident" means a citizen of the United States  
185 who has not established residence in this state and has not  
186 continuously resided in this state for 1 year and in one county  
187 for the 6 months immediately preceding the initiation of a  
188 vessel titling or registration action.

189 (28)~~(27)~~ "Operate" means to be in charge of or in command  
190 of or in actual physical control of a vessel upon the waters of  
191 this state, or to exercise control over or to have  
192 responsibility for a vessel's navigation or safety while the  
193 vessel is underway upon the waters of this state, or to control  
194 or steer a vessel being towed by another vessel upon the waters  
195 of the state.

196 (29)~~(28)~~ "Owner" means a person, other than a lienholder,  
197 having the property in or title to a vessel. The term includes a  
198 person entitled to the use or possession of a vessel subject to  
199 an interest in another person, reserved or created by agreement  
200 and securing payment of performance of an obligation, but the  
201 term excludes a lessee under a lease not intended as security.

202 (30)~~(29)~~ "Person" means an individual, partnership, firm,  
203 corporation, association, or other entity.

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204        (31)~~(30)~~ "Personal watercraft" means a vessel less than 16  
205 feet in length which uses an inboard motor powering a water jet  
206 pump, as its primary source of motive power and which is  
207 designed to be operated by a person sitting, standing, or  
208 kneeling on the vessel, rather than in the conventional manner  
209 of sitting or standing inside the vessel.

210        (32)~~(31)~~ "Portable toilet" means a device consisting of a  
211 lid, seat, containment vessel, and support structure which ~~that~~  
212 is specifically designed to receive, retain, and discharge human  
213 waste and which ~~that~~ is capable of being removed from a vessel  
214 by hand.

215        (33)~~(32)~~ "Prohibited activity" means such activity as will  
216 impede or disturb navigation or creates a safety hazard on  
217 waterways of this state.

218        (34) "Quick release" means a device that enables the  
219 tethered or connected person to quickly release or remove  
220 himself or herself from his or her support system.

221        (35)~~(33)~~ "Racing shell," "rowing scull," or "racing kayak"  
222 means a manually propelled vessel that ~~which~~ is recognized by  
223 national or international racing associations for use in  
224 competitive racing and in which all occupants, with the  
225 exception of a coxswain, if one is provided, row, scull, or  
226 paddle, and that ~~which~~ is not designed to carry and does not  
227 carry any equipment not solely for competitive racing.

228        (36)~~(34)~~ "Recreational vessel" means any vessel:

229        (a) Manufactured and used primarily for noncommercial  
230 purposes; or

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

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233        ~~(37)~~~~(35)~~ "Registration" means a state operating license on  
234 a vessel which is issued with an identifying number, an annual  
235 certificate of registration, and a decal designating the year  
236 for which a registration fee is paid.

237        ~~(38)~~~~(36)~~ "Resident" means a citizen of the United States  
238 who has established residence in this state and has continuously  
239 resided in this state for 1 year and in one county for the 6  
240 months immediately preceding the initiation of a vessel titling  
241 or registration action.

242        ~~(39)~~~~(37)~~ "Sailboat" means any vessel whose sole source of  
243 propulsion is the wind.

244        (40) "Support system" means a device used to tether,  
245 connect, or otherwise suspend a person under the canopy.

246        (41) "Sustained wind speed" means a wind speed determined  
247 by averaging the observed wind speed rounded to the nearest  
248 whole knot over a 2-minute period.

249        ~~(42)~~~~(38)~~ "Unclaimed vessel" means any undocumented vessel,  
250 including its machinery, rigging, and accessories, which is in  
251 the physical possession of any marina, garage, or repair shop  
252 for repairs, improvements, or other work with the knowledge of  
253 the vessel owner and for which the costs of such services have  
254 been unpaid for a period in excess of 90 days from the date  
255 written notice of the completed work is given by the marina,  
256 garage, or repair shop to the vessel owner.

257        ~~(43)~~~~(39)~~ "Vessel" is synonymous with boat as referenced in  
258 s. 1(b), Art. VII of the State Constitution and includes every  
259 description of watercraft, barge, and airboat, other than a  
260 seaplane on the water, used or capable of being used as a means  
261 of transportation on water.

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262        ~~(44)~~(40) "Waters of this state" means any navigable waters  
263 of the United States within the territorial limits of this  
264 state, and the marginal sea adjacent to this state and the high  
265 seas when navigated as a part of a journey or ride to or from  
266 the shore of this state, and all the inland lakes, rivers, and  
267 canals under the jurisdiction of this state.

268        Section 2. Section 327.375, Florida Statutes, is created to  
269 read:

270        327.375 Commercial parasailing.-

271        (1) This section may be cited as the "Alejandra White Act."

272        (2) The owner of a vessel engaged in commercial parasailing  
273 may not offer or provide for consideration any parasailing  
274 activity unless the owner first obtains and carries in full  
275 force and effect an insurance policy, from an insurance carrier  
276 licensed in this state, insuring against any accident, loss,  
277 injury, property damage, death, or other casualty caused by or  
278 resulting from any commercial parasailing activity. The  
279 insurance policy must provide coverage of at least \$1 million  
280 per person, per event. Proof of insurance must be available for  
281 inspection at the location where commercial parasailing is  
282 offered or provided for consideration and each customer who  
283 requests it shall be provided with the insurance carrier's name  
284 and address and the insurance policy number.

285        (3) A person engaged in commercial parasailing must meet  
286 the following requirements:

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

289        (b) A person may not operate a vessel engaged in commercial  
290 parasailing on the waters of this state unless the person has a

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291 current and valid license issued by the United States Coast  
292 Guard authorizing that person to engage in carrying passengers  
293 for hire. The license must be appropriate for the number of  
294 passengers carried and the displacement of the vessel. The  
295 license must be carried on the vessel and be available for  
296 inspection while commercial parasailing activities are  
297 conducted.

298 (c) A person may not operate a vessel for commercial  
299 parasailing unless an observer 18 years of age or older is  
300 present in the vessel at all times to monitor the progress of  
301 any tethered parasail rider and parasail equipment. The observer  
302 may not be a customer, must be attentive to the parasail rider  
303 or riders and equipment, and may not have any other duties while  
304 the rider or riders are in the water or suspended above the  
305 water.

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

308 1. All riders wear an appropriate floatation device  
309 approved by the United States Coast Guard, other than an  
310 inflatable device, which is in serviceable condition and of the  
311 proper size;

312 2. All riders are equipped with a support system that  
313 includes a harness that has a quick release or is a "gondola  
314 style" system that allows the rider to quickly self evacuate  
315 during an emergency.

316 3. The vessel is in full compliance with all requirements  
317 of the United States Coast Guard governing crewing and equipment  
318 carriage for passenger-carrying vessels as specified in the Code  
319 of Federal Regulations or as otherwise specified by the United

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320 States Coast Guard in the vessel's certificate of inspection;  
321 and

322 4. The vessel is equipped with a functional VHF marine  
323 transceiver that can monitor National Weather Service forecasts  
324 and send and receive and monitor channel 16.

325 (e) No more than two persons may be tethered to the towing  
326 vessel and ascend above the water at any time.

327 (f) A person may not operate a vessel towing a commercial  
328 parasailing rider on any waters of the state less than 1,800  
329 feet from the shore. This restriction applies to the entire  
330 commercial parasailing apparatus, including the vessel, towline,  
331 and rider.

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

335 1. An anchored vessel;

336 2. A person in the water; or

337 3. A structure, bridge, power line, wharf, pier, dock,  
338 platform, piling, marker, or other similar object.

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

342 (i) Commercial parasailing is prohibited when the current  
343 conditions or those forecasted by the National Weather Service  
344 include a sustained wind speed of 20 knots or higher in the area  
345 of operation, rain or heavy fog that results in reduced  
346 visibility of less than 0.5 miles, or a known lightning storm  
347 within 7 miles of the parasailing area.

348 (j) The vessel captain shall use all available means to

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349 determine prevailing and forecasted weather conditions and  
350 record this information in a weather log each time passengers  
351 are to be taken out on the water. The weather log must be  
352 available for inspection at all times at the place of business.

353 (k) Towlines used for commercial parasailing must be rated  
354 for a tensile strength that exceeds 4,800 pounds, must be double  
355 braided, low-stretch type, and may not exceed 800 feet in  
356 length.

357 (l) Each passenger and parasail rider must be given a  
358 safety briefing before embarking or before the parasail activity  
359 commences. This briefing must include a description of the  
360 equipment, the parasail activity, inherent risks, and  
361 instruction on how to safely evacuate from the passenger support  
362 during a water landing.

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

367 (4) A person or operator who violates this section commits  
368 a misdemeanor of the second degree, punishable as provided in s.  
369 775.082 or s. 775.083.

370 Section 3. Paragraph (d) of subsection (5) of section  
371 320.08, Florida Statutes, is amended to read:

372 320.08 License taxes.—Except as otherwise provided herein,  
373 there are hereby levied and imposed annual license taxes for the  
374 operation of motor vehicles, mopeds, motorized bicycles as  
375 defined in s. 316.003(2), tri-vehicles as defined in s. 316.003,  
376 and mobile homes, as defined in s. 320.01, which shall be paid  
377 to and collected by the department or its agent upon the

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378 registration or renewal of registration of the following:

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

381 (d) A wrecker, as defined in s. 320.01(40), which is used  
382 to tow a vessel as defined in s. 327.02(43) ~~s. 327.02(39)~~, a  
383 disabled, abandoned, stolen-recovered, or impounded motor  
384 vehicle as defined in s. 320.01(38), or a replacement motor  
385 vehicle as defined in s. 320.01(39): \$41 flat, of which \$11  
386 shall be deposited into the General Revenue Fund.

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

389 327.391 Airboats regulated.—

390 (1) The exhaust of every internal combustion engine used on  
391 any airboat operated on the waters of this state shall be  
392 provided with an automotive-style factory muffler, underwater  
393 exhaust, or other manufactured device capable of adequately  
394 muffling the sound of the exhaust of the engine as described in  
395 s. 327.02(25) ~~s. 327.02(24)~~. The use of cutouts or flex pipe as  
396 the sole source of muffling is prohibited, except as provided in  
397 subsection (4). Any person who violates this subsection commits  
398 a noncriminal infraction punishable as provided in s. 327.73(1).

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

401 328.17 Nonjudicial sale of vessels.—

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

404 (a) A possessory lien upon any vessel for storage fees,  
405 dockage fees, repairs, improvements, or other work-related  
406 storage charges, and for expenses necessary for preservation of

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407 the vessel or expenses reasonably incurred in the sale or other  
408 disposition of the vessel. The possessory lien shall attach as  
409 of the date the vessel is brought to the marina or as of the  
410 date the vessel first occupies rental space at the marina  
411 facility.

412 (b) A possessory lien upon any vessel in a wrecked, junked,  
413 or substantially dismantled condition, which has been left  
414 abandoned at a marina, for expenses reasonably incurred in the  
415 removal and disposal of the vessel. The possessory lien shall  
416 attach as of the date the vessel arrives at the marina or as of  
417 the date the vessel first occupies rental space at the marina  
418 facility. If the funds recovered from the sale of the vessel, or  
419 from the scrap or salvage value of the vessel, are insufficient  
420 to cover the expenses reasonably incurred by the marina in  
421 removing and disposing of the vessel, all costs in excess of  
422 recovery shall be recoverable against the owner of the vessel.  
423 For a vessel damaged as a result of a named storm, the  
424 provisions of this paragraph shall be suspended for 60 days  
425 following the date the vessel is damaged in the named storm. The  
426 operation of the provisions specified in this paragraph run  
427 concurrently with, and do not extend, the 60-day notice periods  
428 provided in subsections (5) and (7).

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

431 342.07 Recreational and commercial working waterfronts;  
432 legislative findings; definitions.—

433 (2) As used in this section, the term "recreational and  
434 commercial working waterfront" means a parcel or parcels of real  
435 property which ~~that~~ provide access for water-dependent

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436 commercial activities, including hotels and motels as defined in  
437 s. 509.242(1), or provide access for the public to the navigable  
438 waters of the state. Recreational and commercial working  
439 waterfronts require direct access to or a location on, over, or  
440 adjacent to a navigable body of water. The term includes water-  
441 dependent facilities that are open to the public and offer  
442 public access by vessels to the waters of the state or that are  
443 support facilities for recreational, commercial, research, or  
444 governmental vessels. These facilities include public lodging  
445 establishments, docks, wharfs, lifts, wet and dry marinas, boat  
446 ramps, boat hauling and repair facilities, commercial fishing  
447 facilities, boat construction facilities, and other support  
448 structures over the water. As used in this section, the term  
449 "vessel" has the same meaning as in s. 327.02(43) ~~s. 327.02(39)~~.  
450 Seaports are excluded from the definition.

451 Section 7. Paragraph (b) of subsection (1) of section  
452 713.78, Florida Statutes, is amended to read:

453 713.78 Liens for recovering, towing, or storing vehicles  
454 and vessels.—

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

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

460 Section 8. Paragraph (b) of subsection (1) of section  
461 715.07, Florida Statutes, is amended to read:

462 715.07 Vehicles or vessels parked on private property;  
463 towing.—

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

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

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