

By the Committee on Environmental Preservation and Conservation;
and Senators Jones and Latvala

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1 A bill to be entitled
2 An act relating to commercial parasailing; amending s.
3 327.02, F.S.; defining terms; creating s. 327.375,
4 F.S.; requiring the owner of a vessel engaged in
5 commercial parasailing to obtain and carry an
6 insurance policy; providing minimum coverage
7 requirements 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)~~(33)~~ "Racing shell," "rowing scull," or "racing kayak"
219 means a manually propelled vessel that ~~which~~ is recognized by
220 national or international racing associations for use in
221 competitive racing and in which all occupants, with the
222 exception of a coxswain, if one is provided, row, scull, or
223 paddle, and that ~~which~~ is not designed to carry and does not
224 carry any equipment not solely for competitive racing.

225 (35)~~(34)~~ "Recreational vessel" means any vessel:

226 (a) Manufactured and used primarily for noncommercial
227 purposes; or

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

230 (36)~~(35)~~ "Registration" means a state operating license on
231 a vessel which is issued with an identifying number, an annual
232 certificate of registration, and a decal designating the year

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233 for which a registration fee is paid.

234 (37)~~(36)~~ "Resident" means a citizen of the United States
235 who has established residence in this state and has continuously
236 resided in this state for 1 year and in one county for the 6
237 months immediately preceding the initiation of a vessel titling
238 or registration action.

239 (38)~~(37)~~ "Sailboat" means any vessel whose sole source of
240 propulsion is the wind.

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

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

246 (41)~~(38)~~ "Unclaimed vessel" means any undocumented vessel,
247 including its machinery, rigging, and accessories, which is in
248 the physical possession of any marina, garage, or repair shop
249 for repairs, improvements, or other work with the knowledge of
250 the vessel owner and for which the costs of such services have
251 been unpaid for a period in excess of 90 days from the date
252 written notice of the completed work is given by the marina,
253 garage, or repair shop to the vessel owner.

254 (42)~~(39)~~ "Vessel" is synonymous with boat as referenced in
255 s. 1(b), Art. VII of the State Constitution and includes every
256 description of watercraft, barge, and airboat, other than a
257 seaplane on the water, used or capable of being used as a means
258 of transportation on water.

259 (43)~~(40)~~ "Waters of this state" means any navigable waters
260 of the United States within the territorial limits of this
261 state, and the marginal sea adjacent to this state and the high

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262 seas when navigated as a part of a journey or ride to or from
263 the shore of this state, and all the inland lakes, rivers, and
264 canals under the jurisdiction of this state.

265 Section 2. Section 327.375, Florida Statutes, is created to
266 read:

267 327.375 Commercial parasailing.-

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

282 (2) A person engaged in commercial parasailing must meet
283 the following requirements:

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

286 (b) A person may not operate a vessel engaged in commercial
287 parasailing on the waters of this state unless the person has a
288 current and valid license issued by the United States Coast
289 Guard authorizing that person to engage in carrying passengers
290 for hire. The license must be appropriate for the number of

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291 passengers carried and the displacement of the vessel. The
292 license must be carried on the vessel and be available for
293 inspection while commercial parasailing activities are
294 conducted.

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

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

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

309 2. The vessel is in full compliance with all requirements
310 of the United States Coast Guard governing crewing and equipment
311 carriage for passenger-carrying vessels as specified in the Code
312 of Federal Regulations or as otherwise specified by the United
313 States Coast Guard in the vessel's certificate of inspection;
314 and

315 3. The vessel is equipped with a functional VHF marine
316 transceiver and a separate electronic device capable of access
317 to National Weather Service forecasts and current weather
318 conditions.

319 (e) No more than three persons may be tethered to the

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320 towing vessel and ascend above the water at any time.

321 (f) A person may not operate a vessel towing a commercial
322 parasailing rider on any coastal waters of the state less than
323 1,800 feet from the shore. This restriction applies to the
324 entire commercial parasailing apparatus, including the vessel,
325 towline, and rider.

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

329 1. An anchored vessel;

330 2. A person in the water; or

331 3. A structure, bridge, power line, wharf, pier, dock,
332 platform, piling, marker, or other similar fixed objects.

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

336 (i) Commercial parasailing is prohibited when the current
337 conditions or those forecasted by the National Weather Service
338 include a sustained wind speed of over 20 miles per hour in the
339 area of operation, rain or heavy fog that results in reduced
340 visibility of less than 0.5 miles, or a known lightning storm
341 within 7 miles of the parasailing area.

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

347 (k) Towlines used for commercial parasailing must be rated
348 for a tensile strength that exceeds 4,800 pounds, must be

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349 braided, and must be a low-stretch type and may not exceed 500
350 feet in length.

351 (1) Each passenger and parasail rider must be given a
352 safety briefing before embarking or before the parasail activity
353 commences. This briefing must include a description of the
354 equipment, the parasail activity, inherent risks, and
355 instruction on how to safely evacuate from the passenger support
356 during a water landing.

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

361 (3) A person or operator who violates this section commits
362 a misdemeanor of the second degree, punishable as provided in s.
363 775.082 or s. 775.083.

364 Section 3. Paragraph (d) of subsection (5) of section
365 320.08, Florida Statutes, is amended to read:

366 320.08 License taxes.—Except as otherwise provided herein,
367 there are hereby levied and imposed annual license taxes for the
368 operation of motor vehicles, mopeds, motorized bicycles as
369 defined in s. 316.003(2), tri-vehicles as defined in s. 316.003,
370 and mobile homes, as defined in s. 320.01, which shall be paid
371 to and collected by the department or its agent upon the
372 registration or renewal of registration of the following:

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

375 (d) A wrecker, as defined in s. 320.01(40), which is used
376 to tow a vessel as defined in s. 327.02(42) ~~s. 327.02(39)~~, a
377 disabled, abandoned, stolen-recovered, or impounded motor

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378 vehicle as defined in s. 320.01(38), or a replacement motor
379 vehicle as defined in s. 320.01(39): \$41 flat, of which \$11
380 shall be deposited into the General Revenue Fund.

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

383 327.391 Airboats regulated.—

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

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

395 328.17 Nonjudicial sale of vessels.—

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

398 (a) A possessory lien upon any vessel for storage fees,
399 dockage fees, repairs, improvements, or other work-related
400 storage charges, and for expenses necessary for preservation of
401 the vessel or expenses reasonably incurred in the sale or other
402 disposition of the vessel. The possessory lien shall attach as
403 of the date the vessel is brought to the marina or as of the
404 date the vessel first occupies rental space at the marina
405 facility.

406 (b) A possessory lien upon any vessel in a wrecked, junked,

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

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

425 342.07 Recreational and commercial working waterfronts;
426 legislative findings; definitions.—

427 (2) As used in this section, the term "recreational and
428 commercial working waterfront" means a parcel or parcels of real
429 property which ~~that~~ provide access for water-dependent
430 commercial activities, including hotels and motels as defined in
431 s. 509.242(1), or provide access for the public to the navigable
432 waters of the state. Recreational and commercial working
433 waterfronts require direct access to or a location on, over, or
434 adjacent to a navigable body of water. The term includes water-
435 dependent facilities that are open to the public and offer

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436 public access by vessels to the waters of the state or that are
437 support facilities for recreational, commercial, research, or
438 governmental vessels. These facilities include public lodging
439 establishments, docks, wharfs, lifts, wet and dry marinas, boat
440 ramps, boat hauling and repair facilities, commercial fishing
441 facilities, boat construction facilities, and other support
442 structures over the water. As used in this section, the term
443 "vessel" has the same meaning as in s. 327.02(42) ~~s. 327.02(39)~~.
444 Seaports are excluded from the definition.

445 Section 7. Paragraph (b) of subsection (1) of section
446 713.78, Florida Statutes, is amended to read:

447 713.78 Liens for recovering, towing, or storing vehicles
448 and vessels.—

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

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

454 Section 8. Paragraph (b) of subsection (1) of section
455 715.07, Florida Statutes, is amended to read:

456 715.07 Vehicles or vessels parked on private property;
457 towing.—

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

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

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