

By Senator Jones

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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 from and recovery of
11 riders to a towing vessel; requiring a person engaged
12 in operating a vessel for commercial parasailing to
13 have certain licenses; requiring the presence of an
14 observer; requiring certain equipment; authorizing up
15 to three persons to be tethered to the towing vessel;
16 prohibiting commercial parasailing in certain areas,
17 under certain weather conditions, and during certain
18 hours; providing requirements for a towline; requiring
19 a safety briefing for passengers and parasail riders;
20 providing a penalty; amending ss. 320.08, 327.391,
21 328.17, 342.07, 713.78, and 715.07, F.S.; conforming
22 cross-references to changes made by the act; providing
23 an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Section 327.02, Florida Statutes, is amended to
28 read:

29 327.02 Definitions of terms used in this chapter and in

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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 and used to push air across a set of rudders.

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

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

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

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

1. One or more persons are tethered to the towing vessel;
2. The person or persons ascend above the water; and
3. The person or persons remain suspended under a canopy above the water while the vessel is underway.

(b) The term does not include ultralight glider towing

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59 conducted under the Federal Aviation Administration rules
60 governing ultralight air vehicles as defined in 14 C.F.R. part
61 103.

62 (6)~~(5)~~ "Commercial vessel" means:

63 (a) Any vessel primarily engaged in the taking or landing
64 of saltwater fish or saltwater products or freshwater fish or
65 freshwater products, or any vessel licensed pursuant to s.
66 379.361 from which commercial quantities of saltwater products
67 are harvested, from within and without the waters of this state
68 for sale either to the consumer, retail dealer, or wholesale
69 dealer.

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

72 (7)~~(6)~~ "Commission" means the Fish and Wildlife
73 Conservation Commission.

74 (8)~~(7)~~ "Dealer" means any person authorized by the
75 Department of Revenue to buy, sell, resell, or otherwise
76 distribute vessels. Such person shall have a valid sales tax
77 certificate of registration issued by the Department of Revenue
78 and a valid commercial or occupational license required by any
79 county, municipality, or political subdivision of the state in
80 which the person operates.

81 (9)~~(8)~~ "Division" means the Division of Law Enforcement of
82 the Fish and Wildlife Conservation Commission.

83 (10)~~(9)~~ "Documented vessel" means a vessel for which a
84 valid certificate of documentation is outstanding pursuant to 46
85 C.F.R. part 67.

86 (11)~~(10)~~ "Floating structure" means a floating entity, with
87 or without accommodations built thereon, which is not primarily

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88 used as a means of transportation on water but which serves
89 purposes or provides services typically associated with a
90 structure or other improvement to real property. The term
91 "floating structure" includes, but is not limited to, each
92 entity used as a residence, place of business or office with
93 public access, hotel or motel, restaurant or lounge, clubhouse,
94 meeting facility, storage or parking facility, mining platform,
95 dredge, dragline, or similar facility or entity represented as
96 such. Floating structures are expressly excluded from the
97 definition of the term "vessel" provided in this section.
98 Incidental movement upon water or resting partially or entirely
99 on the bottom shall not, in and of itself, preclude an entity
100 from classification as a floating structure.

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

113 (13)~~(12)~~ "Homemade vessel" means any vessel built after
114 October 31, 1972, for which a federal hull identification number
115 is not required to be assigned by the manufacturer pursuant to
116 federal law, or any vessel constructed or assembled prior to

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117 November 1, 1972, by other than a licensed manufacturer for his
118 or her own use or the use of a specific person. A vessel
119 assembled from a manufacturer's kit or constructed from an
120 unfinished manufactured hull shall be considered to be a
121 homemade vessel if such a vessel is not required to have a hull
122 identification number assigned by the United States Coast Guard.
123 A rebuilt or reconstructed vessel shall in no event be construed
124 to be a homemade vessel.

125 (14)~~(13)~~ "Houseboat" means any vessel that ~~which~~ is used
126 primarily as a residence for a minimum of 21 days during any 30-
127 day period, in a county of this state, and this residential use
128 of the vessel is to the preclusion of the use of the vessel as a
129 means of transportation.

130 (15)~~(14)~~ "Length" means the measurement from end to end
131 over the deck parallel to the centerline excluding sheer.

132 (16)~~(15)~~ "Lien" means a security interest that ~~which~~ is
133 reserved or created by a written agreement recorded with the
134 Department of Highway Safety and Motor Vehicles pursuant to s.
135 328.15 which secures payment or performance of an obligation and
136 is generally valid against third parties.

137 (17)~~(16)~~ "Lienholder" means a person holding a security
138 interest in a vessel, which interest is recorded with the
139 Department of Highway Safety and Motor Vehicles pursuant to s.
140 328.15.

141 (18)~~(17)~~ "Live-aboard vessel" means:

142 (a) Any vessel used solely as a residence and not for
143 navigation;

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

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

148

149 A commercial fishing boat is expressly excluded from the term
150 "live-aboard vessel."

151 (19)~~(18)~~ "Livery vessel" means any vessel leased, rented,
152 or chartered to another for consideration.

153 (20)~~(19)~~ "Manufactured vessel" means any vessel built after
154 October 31, 1972, for which a federal hull identification number
155 is required pursuant to federal law, or any vessel constructed
156 or assembled prior to November 1, 1972, by a duly licensed
157 manufacturer.

158 (21)~~(20)~~ "Marina" means a licensed commercial facility that
159 ~~which~~ provides secured public moorings or dry storage for
160 vessels on a leased basis. A commercial establishment authorized
161 by a licensed vessel manufacturer as a dealership shall be
162 considered a marina for nonjudicial sale purposes.

163 (22)~~(21)~~ "Marine sanitation device" means any equipment
164 other than a toilet, for installation on board a vessel, which
165 is designed to receive, retain, treat, or discharge sewage, and
166 any process to treat such sewage. Marine sanitation device Types
167 I, II, and III shall be defined as provided in 33 C.F.R. part
168 159.

169 (23)~~(22)~~ "Marker" means any channel mark or other aid to
170 navigation, information or regulatory mark, isolated danger
171 mark, safe water mark, special mark, inland waters obstruction
172 mark, or mooring buoy in, on, or over the waters of the state or
173 the shores thereof, and includes, but is not limited to, a sign,
174 beacon, buoy, or light.

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175 (24)~~(23)~~ "Motorboat" means any vessel equipped with
176 machinery for propulsion, irrespective of whether the propulsion
177 machinery is in actual operation.

178 (25)~~(24)~~ "Muffler" means an automotive-style sound-
179 suppression device or system designed to effectively abate the
180 sound of exhaust gases emitted from an internal combustion
181 engine and prevent excessive sound when installed on such an
182 engine.

183 (26)~~(25)~~ "Navigation rules" means the International
184 Navigational Rules Act of 1977, 33 U.S.C. appendix following s.
185 1602, as amended, including the annexes thereto, for vessels on
186 waters outside of established navigational lines of demarcation
187 as specified in 33 C.F.R. part 80 or the Inland Navigational
188 Rules Act of 1980, 33 U.S.C. ss. 2001 et seq., as amended,
189 including the annexes thereto, for vessels on all waters not
190 outside of such lines of demarcation.

191 (27)~~(26)~~ "Nonresident" means a citizen of the United States
192 who has not established residence in this state and has not
193 continuously resided in this state for 1 year and in one county
194 for the 6 months immediately preceding the initiation of a
195 vessel titling or registration action.

196 (28)~~(27)~~ "Operate" means to be in charge of or in command
197 of or in actual physical control of a vessel upon the waters of
198 this state, or to exercise control over or to have
199 responsibility for a vessel's navigation or safety while the
200 vessel is underway upon the waters of this state, or to control
201 or steer a vessel being towed by another vessel upon the waters
202 of the state.

203 (29)~~(28)~~ "Owner" means a person, other than a lienholder,

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204 having the property in or title to a vessel. The term includes a
205 person entitled to the use or possession of a vessel subject to
206 an interest in another person, reserved or created by agreement
207 and securing payment of performance of an obligation, but the
208 term excludes a lessee under a lease not intended as security.

209 (30) "Passenger support system" means a device used to
210 tether, connect, or otherwise suspend a person under a canopy.

211 (31)~~(29)~~ "Person" means an individual, partnership, firm,
212 corporation, association, or other entity.

213 (32)~~(30)~~ "Personal watercraft" means a vessel less than 16
214 feet in length which uses an inboard motor powering a water jet
215 pump, as its primary source of motive power and which is
216 designed to be operated by a person sitting, standing, or
217 kneeling on the vessel, rather than in the conventional manner
218 of sitting or standing inside the vessel.

219 (33)~~(31)~~ "Portable toilet" means a device consisting of a
220 lid, seat, containment vessel, and support structure which ~~that~~
221 is specifically designed to receive, retain, and discharge human
222 waste and which ~~that~~ is capable of being removed from a vessel
223 by hand.

224 (34)~~(32)~~ "Prohibited activity" means such activity as will
225 impede or disturb navigation or creates a safety hazard on
226 waterways of this state.

227 (35)~~(33)~~ "Racing shell," "rowing scull," or "racing kayak"
228 means a manually propelled vessel that ~~which~~ is recognized by
229 national or international racing associations for use in
230 competitive racing and in which all occupants, with the
231 exception of a coxswain, if one is provided, row, scull, or
232 paddle, and that ~~which~~ is not designed to carry and does not

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233 carry any equipment not solely for competitive racing.

234 ~~(36)-(34)~~ "Recreational vessel" means any vessel:

235 (a) Manufactured and used primarily for noncommercial
236 purposes; or

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

239 ~~(37)-(35)~~ "Registration" means a state operating license on
240 a vessel which is issued with an identifying number, an annual
241 certificate of registration, and a decal designating the year
242 for which a registration fee is paid.

243 ~~(38)-(36)~~ "Resident" means a citizen of the United States
244 who has established residence in this state and has continuously
245 resided in this state for 1 year and in one county for the 6
246 months immediately preceding the initiation of a vessel titling
247 or registration action.

248 ~~(39)-(37)~~ "Sailboat" means any vessel whose sole source of
249 propulsion is the wind.

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

253 ~~(41)-(38)~~ "Unclaimed vessel" means any undocumented vessel,
254 including its machinery, rigging, and accessories, which is in
255 the physical possession of any marina, garage, or repair shop
256 for repairs, improvements, or other work with the knowledge of
257 the vessel owner and for which the costs of such services have
258 been unpaid for a period in excess of 90 days from the date
259 written notice of the completed work is given by the marina,
260 garage, or repair shop to the vessel owner.

261 ~~(42)-(39)~~ "Vessel" is synonymous with boat as referenced in

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262 s. 1(b), Art. VII of the State Constitution and includes every
263 description of watercraft, barge, and airboat, other than a
264 seaplane on the water, used or capable of being used as a means
265 of transportation on water.

266 ~~(43)~~~~(40)~~ "Waters of this state" means any navigable waters
267 of the United States within the territorial limits of this
268 state, and the marginal sea adjacent to this state and the high
269 seas when navigated as a part of a journey or ride to or from
270 the shore of this state, and all the inland lakes, rivers, and
271 canals under the jurisdiction of this state.

272 Section 2. Section 327.375, Florida Statutes, is created to
273 read:

274 327.375 Commercial parasailing.—

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

289 (2) A person engaged in commercial parasailing must meet
290 the following requirements:

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

293 (b) A person may not operate a vessel engaged in commercial
294 parasailing on the waters of this state unless the person has a
295 current and valid license issued by the United States Coast
296 Guard authorizing that person to engage in carrying passengers
297 for hire. The license must be appropriate for the number of
298 passengers carried and the displacement of the vessel. The
299 license must be carried on the vessel and be available for
300 inspection while commercial parasailing activities are
301 conducted.

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

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

312 1. All riders wear an appropriate floatation device
313 approved by the United States Coast Guard, other than an
314 inflatable device, which is in serviceable condition and of the
315 proper size;

316 2. 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 3. The vessel is equipped with a functional VHF marine
323 transceiver and a separate electronic device capable of access
324 to National Weather Service forecasts and current weather
325 conditions.

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

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

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

- 336 1. An anchored vessel;
337 2. A person in the water; or
338 3. A structure, bridge, power line, wharf, pier, dock,
339 platform, piling, marker, or other similar fixed objects.

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

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

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

354 (k) A towline used for commercial parasailing must be rated
355 for a tensile strength that exceeds 4,800 pounds, must be
356 braided, and must be a low-stretch type and may not exceed 500
357 feet in length.

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

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

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

371 Section 3. Paragraph (d) of subsection (5) of section
372 320.08, Florida Statutes, is amended to read:

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

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378 to and collected by the department or its agent upon the
379 registration or renewal of registration of the following:

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

382 (d) A wrecker, as defined in s. 320.01(40), which is used
383 to tow a vessel as defined in s. 327.02(42) ~~s. 327.02(39)~~, a
384 disabled, abandoned, stolen-recovered, or impounded motor
385 vehicle as defined in s. 320.01(38), or a replacement motor
386 vehicle as defined in s. 320.01(39): \$41 flat, of which \$11
387 shall be deposited into the General Revenue Fund.

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

390 327.391 Airboats regulated.—

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

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

402 328.17 Nonjudicial sale of vessels.—

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

405 (a) A possessory lien upon any vessel for storage fees,
406 dockage fees, repairs, improvements, or other work-related

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

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

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

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

434 (2) As used in this section, the term "recreational and
435 commercial working waterfront" means a parcel or parcels of real

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436 property which ~~that~~ provide access for water-dependent
437 commercial activities, including hotels and motels as defined in
438 s. 509.242(1), or provide access for the public to the navigable
439 waters of the state. Recreational and commercial working
440 waterfronts require direct access to or a location on, over, or
441 adjacent to a navigable body of water. The term includes water-
442 dependent facilities that are open to the public and offer
443 public access by vessels to the waters of the state or that are
444 support facilities for recreational, commercial, research, or
445 governmental vessels. These facilities include public lodging
446 establishments, docks, wharfs, lifts, wet and dry marinas, boat
447 ramps, boat hauling and repair facilities, commercial fishing
448 facilities, boat construction facilities, and other support
449 structures over the water. As used in this section, the term
450 "vessel" has the same meaning as in s. 327.02(42) ~~s. 327.02(39)~~.
451 Seaports are excluded from the definition.

452 Section 7. Paragraph (b) of subsection (1) of section
453 713.78, Florida Statutes, is amended to read:

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

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

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

461 Section 8. Paragraph (b) of subsection (1) of section
462 715.07, Florida Statutes, is amended to read:

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

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

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

470 Section 9. This act shall take effect July 1, 2012.