

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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30 chapter 328.—As used in this chapter and in chapter 328, unless  
31 the context clearly requires a different meaning, the term:

32 (1) "Airboat" means a vessel that is primarily designed for  
33 use in shallow waters and powered by an internal combustion  
34 engine with an airplane-type propeller mounted above the stern  
35 and used to push air across a set of rudders.

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

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

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

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

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

58 (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.