



949474

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/03/2013	.	
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The Committee on Regulated Industries (Sachs) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. This act may be cited as the "White-Miskell Act."

Section 2. Section 327.02, Florida Statutes, is amended to read:

327.02 Definitions of terms used in this chapter and in 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



949474

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

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

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

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

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

- 34 1. One or more persons are tethered to the towing vessel;
35 2. The person or persons ascend above the water; and
36 3. The person or persons remain suspended under a canopy,
37 chute, or parasail above the water while the vessel is underway.

38 (b) The term does not include ultralight glider towing
39 conducted under rules of the Federal Aviation Administration
40 governing ultralight air vehicles as defined in 14 C.F.R. part
41 103.



949474

42 (6)~~(5)~~ "Commercial vessel" means:

43 (a) Any vessel primarily engaged in the taking or landing
44 of saltwater fish or saltwater products or freshwater fish or
45 freshwater products, or any vessel licensed pursuant to s.
46 379.361 from which commercial quantities of saltwater products
47 are harvested, from within and without the waters of this state
48 for sale either to the consumer, retail dealer, or wholesale
49 dealer.

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

52 (7)~~(6)~~ "Commission" means the Fish and Wildlife
53 Conservation Commission.

54 (8)~~(7)~~ "Dealer" means any person authorized by the
55 Department of Revenue to buy, sell, resell, or otherwise
56 distribute vessels. Such person shall have a valid sales tax
57 certificate of registration issued by the Department of Revenue
58 and a valid commercial or occupational license required by any
59 county, municipality, or political subdivision of the state in
60 which the person operates.

61 (9)~~(8)~~ "Division" means the Division of Law Enforcement of
62 the Fish and Wildlife Conservation Commission.

63 (10)~~(9)~~ "Documented vessel" means a vessel for which a
64 valid certificate of documentation is outstanding pursuant to 46
65 C.F.R. part 67.

66 (11)~~(10)~~ "Floating structure" means a floating entity, with
67 or without accommodations built thereon, which is not primarily
68 used as a means of transportation on water but which serves
69 purposes or provides services typically associated with a
70 structure or other improvement to real property. The term



949474

71 "floating structure" includes, but is not limited to, each
72 entity used as a residence, place of business or office with
73 public access, hotel or motel, restaurant or lounge, clubhouse,
74 meeting facility, storage or parking facility, mining platform,
75 dredge, dragline, or similar facility or entity represented as
76 such. Floating structures are expressly excluded from the
77 definition of the term "vessel" provided in this section.
78 Incidental movement upon water or resting partially or entirely
79 on the bottom does ~~shall~~ not, in and of itself, preclude an
80 entity from classification as a floating structure.

81 (12) ~~(11)~~ "Florida Intracoastal Waterway" means the Atlantic
82 Intracoastal Waterway, the Georgia state line north of
83 Fernandina to Miami; the Port Canaveral lock and canal to the
84 Atlantic Intracoastal Waterway; the Atlantic Intracoastal
85 Waterway, Miami to Key West; the Okeechobee Waterway, Stuart to
86 Fort Myers; the St. Johns River, Jacksonville to Sanford; the
87 Gulf Intracoastal Waterway, Anclote to Fort Myers; the Gulf
88 Intracoastal Waterway, Carrabelle to Tampa Bay; Carrabelle to
89 Anclote open bay section (using Gulf of Mexico); the Gulf
90 Intracoastal Waterway, Carrabelle to the Alabama state line west
91 of Pensacola; and the Apalachicola, Chattahoochee, and Flint
92 Rivers in Florida.

93 (13) ~~(12)~~ "Homemade vessel" means any vessel built after
94 October 31, 1972, for which a federal hull identification number
95 is not required to be assigned by the manufacturer pursuant to
96 federal law, or any vessel constructed or assembled prior to
97 November 1, 1972, by other than a licensed manufacturer for his
98 or her own use or the use of a specific person. A vessel
99 assembled from a manufacturer's kit or constructed from an



949474

100 unfinished manufactured hull shall be considered to be a
101 homemade vessel if such a vessel is not required to have a hull
102 identification number assigned by the United States Coast Guard.
103 A rebuilt or reconstructed vessel shall in no event be construed
104 to be a homemade vessel.

105 ~~(14)~~ ~~(13)~~ "Houseboat" means any vessel that ~~which~~ is used
106 primarily as a residence for a minimum of 21 days during any 30-
107 day period, in a county of this state, and this residential use
108 of the vessel is to the preclusion of the use of the vessel as a
109 means of transportation.

110 ~~(15)~~ ~~(14)~~ "Length" means the measurement from end to end
111 over the deck parallel to the centerline excluding sheer.

112 ~~(16)~~ ~~(15)~~ "Lien" means a security interest that ~~which~~ is
113 reserved or created by a written agreement recorded with the
114 Department of Highway Safety and Motor Vehicles pursuant to s.
115 328.15 and that ~~which~~ secures payment or performance of an
116 obligation and is generally valid against third parties.

117 ~~(17)~~ ~~(16)~~ "Lienholder" means a person holding a security
118 interest in a vessel, which interest is recorded with the
119 Department of Highway Safety and Motor Vehicles pursuant to s.
120 328.15.

121 ~~(18)~~ ~~(17)~~ "Live-aboard vessel" means:

122 (a) Any vessel used solely as a residence and not for
123 navigation;

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

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

128



949474

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

131 ~~(19)(18)~~ "Livery vessel" means any vessel leased, rented,
132 or chartered to another for consideration.

133 ~~(20)(19)~~ "Manufactured vessel" means any vessel built after
134 October 31, 1972, for which a federal hull identification number
135 is required pursuant to federal law, or any vessel constructed
136 or assembled prior to November 1, 1972, by a duly licensed
137 manufacturer.

138 ~~(21)(20)~~ "Marina" means a licensed commercial facility that
139 ~~which~~ provides secured public moorings or dry storage for
140 vessels on a leased basis. A commercial establishment authorized
141 by a licensed vessel manufacturer as a dealership shall be
142 considered a marina for nonjudicial sale purposes.

143 ~~(22)(21)~~ "Marine sanitation device" means any equipment
144 other than a toilet, for installation on board a vessel, which
145 is designed to receive, retain, treat, or discharge sewage, and
146 any process to treat such sewage. Marine sanitation device Types
147 I, II, and III shall be defined as provided in 33 C.F.R. part
148 159.

149 ~~(23)(22)~~ "Marker" means any channel mark or other aid to
150 navigation, information or regulatory mark, isolated danger
151 mark, safe water mark, special mark, inland waters obstruction
152 mark, or mooring buoy in, on, or over the waters of the state or
153 the shores thereof, and includes, but is not limited to, a sign,
154 beacon, buoy, or light.

155 ~~(24)(23)~~ "Motorboat" means any vessel equipped with
156 machinery for propulsion, irrespective of whether the propulsion
157 machinery is in actual operation.



949474

158 ~~(25)~~~~(24)~~ "Muffler" means an automotive-style sound-
159 suppression device or system designed to effectively abate the
160 sound of exhaust gases emitted from an internal combustion
161 engine and prevent excessive sound when installed on such an
162 engine.

163 ~~(26)~~~~(25)~~ "Navigation rules" means the International
164 Navigational Rules Act of 1977, 33 U.S.C. appendix following s.
165 1602, as amended, including the annexes thereto, for vessels on
166 waters outside ~~of~~ established navigational lines of demarcation
167 as specified in 33 C.F.R. part 80 or the Inland Navigational
168 Rules Act of 1980, 33 U.S.C. ss. 2001 et seq., as amended,
169 including the annexes thereto, for vessels on all waters not
170 outside ~~of~~ such lines of demarcation.

171 ~~(27)~~~~(26)~~ "Nonresident" means a citizen of the United States
172 who has not established residence in this state and has not
173 continuously resided in this state for 1 year and in one county
174 for the 6 months immediately preceding the initiation of a
175 vessel titling or registration action.

176 ~~(28)~~~~(27)~~ "Operate" means to be in charge of or in command
177 of or in actual physical control of a vessel upon the waters of
178 this state, or to exercise control over or to have
179 responsibility for a vessel's navigation or safety while the
180 vessel is underway upon the waters of this state, or to control
181 or steer a vessel being towed by another vessel upon the waters
182 of the state.

183 ~~(29)~~~~(28)~~ "Owner" means a person, other than a lienholder,
184 having the property in or title to a vessel. The term includes a
185 person entitled to the use or possession of a vessel subject to
186 an interest in another person, reserved or created by agreement



949474

187 and securing payment of performance of an obligation, but the
188 term excludes a lessee under a lease not intended as security.

189 ~~(30)~~~~(29)~~ "Person" means an individual, partnership, firm,
190 corporation, association, or other entity.

191 ~~(31)~~~~(30)~~ "Personal watercraft" means a vessel less than 16
192 feet in length which uses an inboard motor powering a water jet
193 pump, as its primary source of motive power and which is
194 designed to be operated by a person sitting, standing, or
195 kneeling on the vessel, rather than in the conventional manner
196 of sitting or standing inside the vessel.

197 ~~(32)~~~~(31)~~ "Portable toilet" means a device consisting of a
198 lid, seat, containment vessel, and support structure which ~~that~~
199 is specifically designed to receive, retain, and discharge human
200 waste and which ~~that~~ is capable of being removed from a vessel
201 by hand.

202 ~~(33)~~~~(32)~~ "Prohibited activity" means such activity as will
203 impede or disturb navigation or creates a safety hazard on
204 waterways of this state.

205 ~~(34)~~~~(33)~~ "Racing shell," "rowing scull," or "racing kayak"
206 means a manually propelled vessel that ~~which~~ is recognized by
207 national or international racing associations for use in
208 competitive racing and in which all occupants, with the
209 exception of a coxswain, if one is provided, row, scull, or
210 paddle, and that ~~which~~ is not designed to carry and does not
211 carry any equipment not solely for competitive racing.

212 ~~(35)~~~~(34)~~ "Recreational vessel" means any vessel:

213 (a) Manufactured and used primarily for noncommercial
214 purposes; or

215 (b) Leased, rented, or chartered to a person for the



949474

216 person's noncommercial use.

217 (36)~~(35)~~ "Registration" means a state operating license on
218 a vessel which is issued with an identifying number, an annual
219 certificate of registration, and a decal designating the year
220 for which a registration fee is paid.

221 (37)~~(36)~~ "Resident" means a citizen of the United States
222 who has established residence in this state and has continuously
223 resided in this state for 1 year and in one county for the 6
224 months immediately preceding the initiation of a vessel titling
225 or registration action.

226 (38)~~(37)~~ "Sailboat" means any vessel whose sole source of
227 propulsion is the wind.

228 (39) "Sustained wind speed" means a wind speed determined
229 by averaging the observed wind speed rounded up to the nearest
230 mile per hour over a 2-minute period.

231 (40)~~(39)~~ "Unclaimed vessel" means any undocumented vessel,
232 including its machinery, rigging, and accessories, which is in
233 the physical possession of any marina, garage, or repair shop
234 for repairs, improvements, or other work with the knowledge of
235 the vessel owner and for which the costs of such services have
236 been unpaid for a period in excess of 90 days following ~~from~~ the
237 date written notice of the completed work is given by the
238 marina, garage, or repair shop to the vessel owner.

239 (41)~~(39)~~ "Vessel" is synonymous with boat as referenced in
240 s. 1(b), Art. VII of the State Constitution and includes every
241 description of watercraft, barge, and airboat, other than a
242 seaplane on the water, used or capable of being used as a means
243 of transportation on water.

244 (42)~~(40)~~ "Waters of this state" means any navigable waters



949474

245 of the United States within the territorial limits of this
246 state, ~~and~~ the marginal sea adjacent to this state and the high
247 seas when navigated as a part of a journey or ride to or from
248 the shore of this state, and all the inland lakes, rivers, and
249 canals under the jurisdiction of this state.

250 Section 3. Section 327.375, Florida Statutes, is created to
251 read:

252 327.375 Commercial parasailing.—

253 (1) The operator of a vessel engaged in commercial
254 parasailing shall, in addition to the provisions provided in
255 this section, ensure that the provisions of s. 327.37 are met.

256 (2) The owner or operator of a vessel engaged in commercial
257 parasailing may not offer or provide for consideration any
258 parasailing activity unless the owner or operator first obtains
259 and carries in full force and effect a liability insurance
260 policy, from an insurance carrier licensed in this state or
261 approved by the Office of Insurance Regulation, or from an
262 eligible surplus lines insurer. The liability insurance policy
263 must provide bodily injury liability coverage in the amounts of
264 at least \$1 million per person and \$2 million per occurrence.
265 Proof of insurance must be available for inspection at the
266 location where commercial parasailing is offered or provided for
267 consideration, and each customer who requests it shall be
268 provided with the insurance carrier's name and address and the
269 insurance policy number.

270 (3) The operator of a vessel engaged in commercial
271 parasailing must have a current and valid license issued by the
272 United States Coast Guard authorizing that person to carry
273 passengers for hire. The license must be appropriate for the



949474

274 number of passengers carried and the displacement of the vessel.
275 The license must be carried on the vessel and be available for
276 inspection while engaging in commercial parasailing activities.

277 (4) A vessel engaged in commercial parasailing must be
278 equipped with a functional VHF Marine transceiver and a separate
279 electronic device capable of access to National Weather Service
280 forecasts and current weather conditions.

281 (5) (a) Commercial parasailing is prohibited when the
282 current observed wind conditions in the area of operation
283 include a sustained wind speed of more than 20 miles per hour,
284 wind gusts of a difference of 15 miles per hour greater than the
285 sustained wind speed, the wind speed during gusts exceeds 25
286 miles per hour, rain or heavy fog results in reduced visibility
287 of less than 0.5 mile, or when a known lightning storm comes
288 within 7 miles of the parasailing area.

289 (b) The operator of the vessel engaged in commercial
290 parasailing shall use all available means to determine
291 prevailing and forecasted weather conditions and must record
292 this information in a weather log each time passengers are to be
293 taken out on the water. The weather log must be available for
294 inspection at all times at the place of business.

295 (6) A person or operator who violates any provision of this
296 section commits a misdemeanor of the second degree, punishable
297 as provided in s. 775.082 or s. 775.083.

298 Section 4. Paragraph (d) of subsection (5) of section
299 320.08, Florida Statutes, is amended to read:

300 320.08 License taxes.—Except as otherwise provided herein,
301 there are hereby levied and imposed annual license taxes for the
302 operation of motor vehicles, mopeds, motorized bicycles as



949474

303 defined in s. 316.003(2), tri-vehicles as defined in s. 316.003,
304 and mobile homes, as defined in s. 320.01, which shall be paid
305 to and collected by the department or its agent upon the
306 registration or renewal of registration of the following:

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

309 (d) A wrecker, as defined in s. 320.01(40), which is used
310 to tow a vessel as defined in s. 327.02(41) ~~s. 327.02(39)~~, a
311 disabled, abandoned, stolen-recovered, or impounded motor
312 vehicle as defined in s. 320.01(38), or a replacement motor
313 vehicle as defined in s. 320.01(39): \$41 flat, of which \$11
314 shall be deposited into the General Revenue Fund.

315 Section 5. Subsection (1) of section 327.391, Florida
316 Statutes, is amended to read:

317 327.391 Airboats regulated.—

318 (1) The exhaust of every internal combustion engine used on
319 any airboat operated on the waters of this state shall be
320 provided with an automotive-style factory muffler, underwater
321 exhaust, or other manufactured device capable of adequately
322 muffling the sound of the exhaust of the engine as described in
323 s. 327.02(25) ~~s. 327.02(24)~~. The use of cutouts or flex pipe as
324 the sole source of muffling is prohibited, except as provided in
325 subsection (4). Any person who violates this subsection commits
326 a noncriminal infraction punishable as provided in s. 327.73(1).

327 Section 6. Subsection (4) of section 328.17, Florida
328 Statutes, is amended to read:

329 328.17 Nonjudicial sale of vessels.—

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



949474

332 (a) A possessory lien upon any vessel for storage fees,
333 dockage fees, repairs, improvements, or other work-related
334 storage charges, and for expenses necessary for preservation of
335 the vessel or expenses reasonably incurred in the sale or other
336 disposition of the vessel. The possessory lien shall attach as
337 of the date the vessel is brought to the marina or as of the
338 date the vessel first occupies rental space at the marina
339 facility.

340 (b) A possessory lien upon any vessel in a wrecked, junked,
341 or substantially dismantled condition, which has been left
342 abandoned at a marina, for expenses reasonably incurred in the
343 removal and disposal of the vessel. The possessory lien shall
344 attach as of the date the vessel arrives at the marina or as of
345 the date the vessel first occupies rental space at the marina
346 facility. If the funds recovered from the sale of the vessel, or
347 from the scrap or salvage value of the vessel, are insufficient
348 to cover the expenses reasonably incurred by the marina in
349 removing and disposing of the vessel, all costs in excess of
350 recovery shall be recoverable against the owner of the vessel.
351 For a vessel damaged as a result of a named storm, the
352 provisions of this paragraph shall be suspended for 60 days
353 following the date the vessel is damaged in the named storm. The
354 operation of the provisions specified in this paragraph run
355 concurrently with, and do not extend, the 60-day notice periods
356 provided in subsections (5) and (7).

357 Section 7. Subsection (2) of section 342.07, Florida
358 Statutes, is amended to read:

359 342.07 Recreational and commercial working waterfronts;
360 legislative findings; definitions.-



949474

361 (2) As used in this section, the term "recreational and
362 commercial working waterfront" means a parcel or parcels of real
363 property which ~~that~~ provide access for water-dependent
364 commercial activities, including hotels and motels as defined in
365 s. 509.242(1), or provide access for the public to the navigable
366 waters of the state. Recreational and commercial working
367 waterfronts require direct access to or a location on, over, or
368 adjacent to a navigable body of water. The term includes water-
369 dependent facilities that are open to the public and offer
370 public access by vessels to the waters of the state or that are
371 support facilities for recreational, commercial, research, or
372 governmental vessels. These facilities include public lodging
373 establishments, docks, wharfs, lifts, wet and dry marinas, boat
374 ramps, boat hauling and repair facilities, commercial fishing
375 facilities, boat construction facilities, and other support
376 structures over the water. As used in this section, the term
377 "vessel" has the same meaning as in s. 327.02(41) ~~s. 327.02(39)~~.
378 Seaports are excluded from the definition.

379 Section 8. Paragraph (b) of subsection (1) of section
380 713.78, Florida Statutes, is amended to read:

381 713.78 Liens for recovering, towing, or storing vehicles
382 and vessels.-

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

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

388 Section 9. Paragraph (b) of subsection (1) of section
389 715.07, Florida Statutes, is amended to read:



949474

390 715.07 Vehicles or vessels parked on private property;
391 towing.—

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

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

397 Section 10. This act shall take effect October 1, 2013.

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399

400 ===== T I T L E A M E N D M E N T =====

401 And the title is amended as follows:

402 Delete everything before the enacting clause
403 and insert:

404 A bill to be entitled

405 An act relating to commercial parasailing; providing a
406 short title; amending s. 327.02, F.S.; defining terms;
407 creating s. 327.375, F.S.; requiring the operator of a
408 vessel engaged in commercial parasailing to ensure
409 that the requirements of s. 327.37, F.S., are met;
410 requiring the owner of a vessel engaged in commercial
411 parasailing to obtain and carry an insurance policy;
412 providing minimum coverage requirements for the
413 insurance policy; providing requirements for proof of
414 insurance; specifying the insurance information that
415 must be provided to each rider; prohibiting commercial
416 parasailing unless certain conditions are met; and
417 under certain weather conditions; requiring that a
418 weather log be maintained and made available for



419 inspection; providing a penalty; amending ss. 320.08,
420 327.391, 328.17, 342.07, 713.78, and 715.07, F.S.;
421 conforming cross-references to changes made by the
422 act; providing an effective date.