

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**REGULATED INDUSTRIES**  
**Senator Stargel, Chair**  
**Senator Braynon, Vice Chair**

**MEETING DATE:** Thursday, January 9, 2014  
**TIME:** 9:30 —11:00 a.m.  
**PLACE:** 301 Senate Office Building

**MEMBERS:** Senator Stargel, Chair; Senator Braynon, Vice Chair; Senators Detert, Flores, Galvano, Gibson, Legg, Sachs, Sobel, and Thrasher

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 342</b> Bradley (Identical H 309)	Florida Clean Indoor Air Act; Authorizing a municipality or county to restrict smoking on certain properties; providing limitations on such restrictions; authorizing a law enforcement officer to issue a citation under certain circumstances, etc.  RI      01/09/2014 Favorable CA CJ	Favorable Yeas 8 Nays 0
2	<b>SB 320</b> Sachs (Identical H 347)	Commercial Parasailing; Citing this act as the "White-Miskell Act"; requiring the operator of a vessel engaged in commercial parasailing to ensure that specified requirements are met; requiring the owner of a vessel engaged in commercial parasailing to obtain and maintain an insurance policy; requiring the operator to have a current and valid license issued by the United States Coast Guard; prohibiting commercial parasailing unless certain equipment is present on the vessel and certain weather conditions are met; requiring that a weather log be maintained and made available for inspection, etc.  RI      01/09/2014 Temporarily Postponed CM CA	Temporarily Postponed
3	<b>SB 356</b> Thrasher (Identical H 307)	Regulation of Public Lodging Establishments and Public Food Service Establishments; Deleting the restriction preventing local laws, ordinances, or regulations from regulating the use of vacation rentals based solely on their classification, use, or occupancy, etc.  RI      01/09/2014 Favorable CA	Favorable Yeas 8 Nays 0

Other Related Meeting Documents

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: SB 342

INTRODUCER: Senators Bradley and Margolis

SUBJECT: Florida Clean Indoor Air Act

DATE: January 6, 2014                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	<b>Favorable</b>
2.	_____	_____	CA	_____
3.	_____	_____	CJ	_____
	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____

**I. Summary:**

SB 432 authorizes municipalities and counties to restrict smoking in playground areas if that property is owned by the municipality or county. The bill defines the term “playgrounds” to mean “a designated independent area in the community or neighborhood that is designed solely for children and has one or more playground structures.”<sup>1</sup> The restricted areas must be identified by “No Smoking” signs that delineate the area where smoking is restricted.

The bill requires a law enforcement officer, before issuing a citation for a violation, to first direct the violator to stop smoking and to advise him or her of the penalties for a violation. If the person continues to smoke in violation of the law enforcement officer’s directive, the officer must then ask the person to leave the premises. The law enforcement officer may issue the citation, punishable as provided in s. 386.208, F.S., if the person refuses to leave the premises. The citation may be in addition to any other penalty that may be applicable.

Any ordinances adopted by a municipality or county under the authority provided in this bill would be subject to the fines provided in s. 386.208, F.S., of not more than \$100 for a first violation and not more than \$500 for a subsequent violation.

The bill provides an effective date of July 1, 2014.

<sup>1</sup> The definition is similar to the definition of the term “playground in s. 775.215(1)(c), F.S, relating to residency restriction for persons convicted of certain sex offenses, which defines the term “playground” to mean “a designated independent area in the community or neighborhood that is designated solely for children and has one or more play structures.” The principal difference between the two definitions is that the bill requires that the area designated must be “designed” for children and s. 775.215(1)(c), F.S., requires that the designated area must be “designated” for children. The bill also uses the term “playground structures” and s. 775.215(1)(c), F.S., uses the term “play structures.”

## II. Present Situation:

The Florida Clean Indoor Air Act (act) in part II of ch. 386, F.S., regulates tobacco smoking in Florida. The legislative purpose of the act is to protect people from the health hazards of secondhand tobacco smoke and to implement the Florida health initiative in s. 20, Art. X of the State Constitution.<sup>2</sup>

### Florida Constitution

On November 5, 2002, the voters of Florida approved Amendment 6 to the State Constitution, which prohibits tobacco smoking in enclosed indoor workplaces. Codified as s. 20, Art. X, Florida Constitution, the amendment defines an “enclosed indoor workplace,” in part, as “any place where one or more persons engages in work, and which place is predominantly or totally bounded on all sides and above by physical barriers . . . without regard to whether work is occurring at any given time.” The amendment defines “work” as “any persons providing any employment or employment-type service for or at the request of another individual or individuals or any public or private entity, whether for compensation or not, whether full or part-time, whether legally or not.” The amendment provides limited exceptions for private residences “whenever they are not being used commercially to provide child care, adult care, or health care, or any combination thereof,” retail tobacco shops, designated smoking guest rooms at hotels and other public lodging establishments, and stand-alone bars.

The constitutional amendment directs the Legislature to implement the “amendment in a manner consistent with its broad purpose and stated terms.” The amendment requires that the implementing legislation have an effective date of no later than July 1, 2003, and requires that the implementing legislation must also provide civil penalties for violations; provide for administrative enforcement; and require and authorize agency rules for implementation and enforcement. The amendment further provides that the Legislature may enact legislation more restrictive of tobacco smoking than that provided in the Florida Constitution.

### Florida’s Clean Indoor Air Act

The Legislature implemented the smoking ban by enacting ch. 2003-398, L.O.F., effective July 1, 2003, which amended pt. II of ch. 386, F.S., and created s. 561.695, F.S., of the Beverage Law. The act, as amended, implements the constitutional amendment’s prohibition. Specifically, s. 386.204, F.S., prohibits smoking in an enclosed indoor workplace, unless the act provides an exception. The act adopts and implements the amendment’s definitions and adopts the amendment’s exceptions for private residences whenever not being used for certain commercial purposes;<sup>3</sup> stand-alone bars;<sup>4</sup> designated smoking rooms in hotels and other public lodging establishments;<sup>5</sup> and retail tobacco shops, including businesses that manufacture, import, or distribute tobacco products and tobacco loose leaf dealers.<sup>6</sup>

Section 386.207, F.S., provides for enforcement of the act by the Department of Health (DOH) and the Department of Business and Professional Regulation (DBPR) within each department’s

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<sup>2</sup> Section 386.202, F.S.

<sup>3</sup> Section 386.2045(1), F.S. *See also* definition of the term “private residence” in s. 386.203(1), F.S.

<sup>4</sup> Section 386.2045(4), F.S. *See also* definition of the term “stand-alone bar” in s. 386.203(11), F.S.

<sup>5</sup> Section 386.2045(3), F.S. *See also* definition of the term “designated guest smoking room” in s. 386.203(4), F.S.

<sup>6</sup> Section 386.2045(2), F.S. *See also* definition of the term “retail tobacco shop” in s. 386.203(8), F.S.

specific areas of regulatory authority. Sections 386.207(1) and 386.2125, F.S., grant rulemaking authority to the DOH and the DBPR and require that the departments consult with the State Fire Marshal during the rulemaking process.

Section 386.207(3), F.S., provides penalties for violations of the act by proprietors or persons in charge of an enclosed indoor workplace.<sup>7</sup> The penalty for a first violation is a fine of not less than \$250 and not more than \$750. The act provides fines for subsequent violations in the amount of not less than \$500 and not more than \$2,000. Penalties for individuals who violate the act are provided in s. 386.208, F.S., which provides for a fine in the amount of not more than \$100 for a first violation and not more than \$500 for a subsequent violation. The penalty range for an individual violation is identical to the penalties for violations of the act before the implementation of the constitutional smoking prohibition.

### **Smoking Prohibited Near School Property**

Section 386.212(1), F.S., prohibits smoking by any person under 18 years of age in, on, or within 1,000 feet of the real property comprising a public or private elementary, middle, or secondary school between the hours of 6 a.m. and midnight. The prohibition does not apply to any person occupying a moving vehicle or within a private residence.

### **Enforcement**

Section 386.212(2), F.S., authorizes law enforcement officers to issue citations in the form as prescribed by a county or municipality to any person violating the provisions of s. 386, F.S., and prescribes the information that must be included in the citation.

The issuance of a citation under s. 386.212(2), F.S., constitutes a civil infraction punishable by a maximum civil penalty not to exceed \$25, or 50 hours of community service or, where available, successful completion of a school-approved anti-tobacco “alternative to suspension” program.<sup>8</sup>

If a person fails to comply with the directions on the citation, the person would waive his or her right to contest the citation and an order to show cause may be issued by the court.<sup>9</sup>

### **Regulation of Smoking Preempted to State**

Section 386.209, F.S., provides that the act expressly preempts regulation of smoking to the state and supersedes any municipal or county ordinance on the subject.

As an exception to the state’s preemption of smoking regulation, s. 386.209, F.S., permits school districts to further restrict smoking by persons on school district property,

Regarding the issue of preemption, a recent Florida Attorney General Opinion concluded that the St. Johns Water Management District could not adopt a regulation prohibiting smoking by all persons on district property.<sup>10</sup> The Attorney General reasoned that s. 386.209, F.S., represents a clear expression of the legislative intent that the act preempts the field of smoking regulation for

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<sup>7</sup> The applicable penalties for violations by designated stand-alone bars are set forth in s. 561.695(8), F.S.

<sup>8</sup> Section 386.212(3), F.S.

<sup>9</sup> Section 386.212(4), F.S.

<sup>10</sup> Fla. AGO 2011-15 (July 21, 2011). *See also*, Fla. AGO 2005-63 (November 21, 2005), which opined that a municipality is preempted from regulating smoking in a public park other than as prescribed by the Legislature.

indoor and outdoor smoking. The Attorney General noted that the 2011 amendment of s. 386.209, F.S.,<sup>11</sup> to authorize school districts to prohibit smoking on school district property and concluded that further legislative authorization would be required for the water management district to regulate smoking on its property.

### **III. Effect of Proposed Changes:**

The bill creates an additional exemption to the preemption of smoking regulation to the state in s. 386.209, F.S.

The bill amends s. 386.209, F.S., to authorize municipalities and counties to restrict smoking in playground areas if that property is owned by the municipality or county. The bill defines the term “playgrounds.” to mean “a designated independent area in the community or neighborhood that is designed solely for children and has one or more playground structures.”<sup>12</sup> The restricted areas must be identified by “No Smoking” signs that delineate the area where smoking is restricted.

The bill requires a law enforcement officer, before issuing a citation for a violation, to first direct the violator to stop smoking and to advise him or her of the penalties for a violation. If the person continues to smoke in violation of the law enforcement officer’s directive, the officer must then ask the person to leave the premises. The law enforcement officer may issue the citation, punishable as provided in s. 386.208, F.S., if the person refuses to leave the premises. The citation may be in addition to any other penalty that may be applicable.

Any ordinances adopted by a municipality or county under the authority provided in this bill would be subject to the fines provided in s. 386.208, F.S., of not more than \$100 for a first violation and not more than \$500 for a subsequent violation.

The bill provides an effective date of July 1, 2014.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

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<sup>11</sup> Chapter 2011-108, L.O.F.

<sup>12</sup> The definition is similar to the definition of the term “playground in s. 775.215(1)(c), F.S., relating to residency restriction for persons convicted of certain sex offenses, which defines the term “playground” to mean “a designated independent area in the community or neighborhood that is designated solely for children and has one or more play structures.” The principal difference between the two definitions is that the bill requires that the area designated must be “designed” for children and s. 775.215(1)(c), F.S., requires that the designated area must be “designated” for children. The bill also uses the term “playground structures” and s. 775.215(1)(c), F.S., uses the term “play structures.”

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Municipal and county governments that opt to restrict smoking in playground areas may incur indeterminate expenses related to the enactment of the ordinance to make the designation and in the procurement, installation, and maintenance of the required “no smoking” signs.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 386.209 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Bradley

7-00236-14

2014342\_\_

A bill to be entitled

An act relating to the Florida Clean Indoor Air Act; amending s. 386.209, F.S.; authorizing a municipality or county to restrict smoking on certain properties; providing limitations on such restrictions; authorizing a law enforcement officer to issue a citation under certain circumstances; defining the term "playground"; providing an effective date.

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

Section 1. Section 386.209, Florida Statutes, is amended to read:

386.209 Regulation of smoking preempted to state.—This part expressly preempts regulation of smoking to the state and supersedes any municipal or county ordinance on the subject, except that: ~~however,~~

(1) A school district ~~districts~~ may further restrict smoking by persons on school district property.

(2) A municipality or county may further restrict smoking in playground areas that are owned by the municipality or county if the area where smoking is restricted is clearly delineated by "No Smoking" signs. A law enforcement officer, before issuing a citation for a violation, must first direct the person smoking to stop smoking and advise him or her of the penalties for a violation. If the person smoking does not heed the directive, the officer must ask the person to leave the premises. If the person refuses to leave the premises, in addition to any other penalty, a civil citation may be issued, punishable as provided

Page 1 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

7-00236-14

2014342\_\_

in s. 386.208. As used in this section, "playground" means a municipally owned or county-owned property that is a designated, independent area in a community or neighborhood which is designed solely for children and has one or more playground structures.

Section 2. This act shall take effect July 1, 2014.

Page 2 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.



The Florida Senate

## Committee Agenda Request

**To:** Senator Kelli Stargel, Chair  
Committee on Regulated Industries

**Subject:** Committee Agenda Request

**Date:** November 7, 2013

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I respectfully request that **Senate Bill # 342**, relating to Florida Clean Indoor Air Act, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "Rob Bradley".

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Senator Rob Bradley  
Florida Senate, District 7



THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/9/14  
Meeting Date

Topic CLEAN INTERIOR AIR ACT

Bill Number 342  
(if applicable)

Name DAVID CULLEN

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title \_\_\_\_\_

Address 1674 UNIV. PKWY  
Street

Phone 941-323-2404

SARASOTA FL 34243  
City State Zip

E-mail cullenase@aol.com

Speaking:  For  Against  Information

Representing SIERRA CLUB FLORIDA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/9/14  
Meeting Date

Topic SB 342

Bill Number 342  
*(if applicable)*

Name Casey Cook

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Legislative Advocate

Address Po Box 1757  
*Street*

Phone 850 701 3701

Tallahassee FL 32301  
*City State Zip*

E-mail ccook@flkites.com

Speaking:  For  Against  Information

Representing Florida League of Cities

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/9/14

Meeting Date

Topic Clean Indoor Air Act

Bill Number 342  
*(if applicable)*

Name Susan Harbin

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Legislative Advocate

Address 100 S Monroe St.  
*Street*  
Tallahassee  
*City* *State* *Zip*

Phone 770 546 8845

E-mail sharbin@fl-counties.com

Speaking:  For  Against  Information

Representing FL Association of Counties

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

Jan. 9, 2014 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

*Meeting Date*

Topic Florida Clean Indoor Air Act

Bill Number 347  
*(if applicable)*

Name Cari Roth

Amendment Barcode N/A  
*(if applicable)*

Job Title Chair, Government Consulting Practice

Address 101 North Monroe Street Ste 900

Phone 850-222-8611

Tallahassee FL 32301  
*City State Zip*

E-mail croth@bmo1aw.com

Speaking:  For  Against  Information

Representing Sarasota, Manatee and Charlotte Counties

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date \_\_\_\_\_

Topic Clean Indoor Air Act

Bill Number 342  
(if applicable)

Name JIM DAUGHTON

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title \_\_\_\_\_

Address 515 S. MONROE ST

Phone 505-9006

Street

Malabar

FL

32301

City

State

Zip

E-mail jim.daughton@metrolink.ca

Speaking:  For  Against  Information

Representing AMERICAN LUNG ASSOCIATION

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)



**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Regulated Industries

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BILL: SB 320

INTRODUCER: Senators Sachs and Margolis

SUBJECT: Commercial Parasailing

DATE: January 7, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Niles	Imhof	RI	<b>Pre-meeting</b>
2.			CM	
3.			CA	

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**I. Summary:**

SB 320 amends ch. 327, F.S., relating to Commercial Parasailing. The bill defines commercial parasailing. The bill establishes minimum requirements for liability insurance, maintenance of a weather log, and safety briefings for parasailing participants.

The bill requires that the operator of the vessel engaged in commercial parasailing evaluate weather conditions and wind speeds as defined in the bill and prohibits commercial parasailing during certain weather conditions. The bill requires that the vessel operator have licensure from the United States Coast Guard appropriate for the number of passengers and the displacement of the vessel.

The bill provides an effective date of October 1, 2014.

**II. Present Situation:**

The Florida Fish and Wildlife Conservation Commission (FWC) estimates there are approximately 100 active commercial parasail operators in Florida, generally operating along the Atlantic Ocean and Gulf of Mexico coastlines.<sup>1</sup> One exception is at Walt Disney World where parasailing takes place on Bay Lake in Orange County.<sup>2</sup>

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<sup>1</sup>2014Legislative Analysis for SB 320, Legislative Affairs Office, Florida Fish and Wildlife Conservation Commission, December 4, 2013.

<sup>2</sup> *Id.*

Data compiled by the FWC indicates that:<sup>3</sup>

- From January 1, 2001, through October 30, 2013, 21 accidents involving parasail vessels have occurred in Florida, resulting in 23 injuries and 6 fatalities;
- In 10 of the accidents, high winds or sudden wind gusts were a contributing factor;
- In 6 of the 10 accidents with wind as a contributing factor, there was equipment failure;
- The boating accident reports state that the wind gusts were produced by sudden thunderstorms in the area of the parasailing operation;
- The other 11 accidents were caused by a variety of factors, including equipment failure and operator error; and
- Equipment failure was also a contributing factor in one fatal accident from 2012. The investigation revealed the personal harness was in poor condition and was unable to sustain the stress of supporting an individual under a parasail.

The most recent incident occurred in Panama City Beach on July 1, 2013.<sup>4</sup> Two Indiana teenage girls were parasailing when weather conditions caused the vessel to lose connection and control of the parasail.<sup>5</sup> The teenagers were critically injured after they were detached from the boat then hit a building, power line and several parked car.<sup>6</sup> As of August 6, 2013 both teens were released from the hospital but may require additional surgeries.<sup>7</sup>

Following the incident, the Coast Guard has released a safety alert for parasailing operators entitled “Know Your Ropes,” which highlights safety factors associated with previous parasailing incidents.<sup>8</sup>

Section 327.37, F.S., regulates vessels towing persons on water skis, parasails, and aquaplanes, and addresses safety requirements including observation of the person being towed, time restrictions, use of personal flotation devices, operational distance restrictions, and operations near airports.

Relevant requirements for vessels towing a person on any waters of the state (except those engaged in certain regattas, boat races, marine parades, tournaments, or exhibitions):<sup>9</sup>

- A person may not operate a vessel on any waters of this state towing a person on water skis, or an aquaplane, or similar device unless there is in such vessel a person, in addition to the operator, in a position to observe the progress of the person being towed, or the

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<sup>3</sup> *Id.*

<sup>4</sup> United States Coast Guard, *UPDATE: Coast Guard investigates parasail accident near the Commodore Condominiums in Panama City Beach* (July 18 2013), available at <http://www.uscgnews.com/go/doc/4007/1855061/UPDATE-Coast-Guard-investigates-parasail-accident-near-the-Commodore-Condominiums-in-Panama-City-Beach> (last visited Jan. 3, 2014).

<sup>5</sup> *Id.*

<sup>6</sup> Dennis Pillion, *Second girl injured in Panama City Beach parasailing accident released from Indiana hospital*, AL.com, [http://blog.al.com/gulf-coast/2013/08/second\\_girl\\_injured\\_in\\_parasai.html](http://blog.al.com/gulf-coast/2013/08/second_girl_injured_in_parasai.html) (last visited January 3, 2014).

<sup>7</sup> *Id.*

<sup>8</sup> U.S. Coast Guard Eighth District External Affairs, *UPDATE 2: Coast Guard releases safety alert for parasailing operations* (Aug. 12, 2013), available at <http://www.uscgnews.com/go/doc/4007/1874570/UPDATE-2-Coast-Guard-releases-safety-alert-for-parasailing-operations> (last visited Jan. 3, 2014).

<sup>9</sup> *See* s. 327.48, F.S.

- vessel is equipped with a wide-angle rear view mirror mounted in such manner as to permit the operator of the vessel to observe the progress of the person being towed;
- A person may not operate a vessel on any waters of this state towing a person attached to a parasail or similar device unless there is a person in the vessel, in addition to the operator, in a position to observe the progress of the person being towed. Use of a wide angle mirror does not satisfy this requirement;
  - Water skiing, parasailing, aquaplaning, or any similar activity (water sports) may not be conducted from one-half hour after sunset to one-half hour before sunrise;
  - A noninflatable type I, type II, type III, or type V personal flotation device approved by the United States Coast Guard must be worn by those engaged in water sports;
  - A person may not operate or manipulate any vessel, tow rope, or other device by which the direction or location of water skis, parasail, aquaplane, innertube, sled, or similar device may be affected or controlled, in such a way as to cause the water skis, parasail, aquaplane, innertube, sled, or similar device or any person, to collide or strike against or be likely to collide or strike against any vessel, bridge, wharf, pier, dock, buoy, platform, piling, channel marker, or other object, except slalom buoys, ski jumps, or like objects used normally in competitive or recreational skiing; and
  - A person may not operate any vessel towing a parasail or engage in parasailing within 100 feet of the marked channel of the Florida Intracoastal Waterway.

A violation of s. 327.37, F.S., is a noncriminal infraction under s. 327.73, F.S. The civil penalty that may be imposed in county court is \$50, but after written warning provided with the issuance of the boating citation, any person who fails to appear or otherwise properly respond to the citation, in addition to the charge relating to violation of the boating laws, shall be charged with the offense of failing to respond to the citation. Upon conviction for such failure to respond, the violator is guilty of a second degree misdemeanor punishable by up to 60 days in jail and a fine not exceeding \$500.

According to the FWC, the Federal Aviation Administration (FAA) regulates parasails as kites because a parasail is a parachute held aloft by wind resulting from the movement of the boat towing it.<sup>10</sup> The FAA defines a kite as a framework, covered with paper, cloth, metal, or other material, intended to be flown at the end of a rope or cable, and having as its only support the force of the wind moving past its surfaces. The FAA regulates kites only to the extent that they are objects in airspace. The regulations provide that no person may operate a moored balloon or kite:<sup>11</sup>

- Less than 500 feet from the base of any cloud;
- More than 500 feet above the surface of the earth;
- From an area where the ground visibility is less than three miles; or
- Within five miles of the boundary of any airport.

The moored balloon or kite's must have colored pennants at 50 foot intervals or less, starting at 150 feet above the surface of the earth that are visible for at least 1 mile.

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<sup>10</sup> See *supra* note 1.

<sup>11</sup> See Title 14 C.F.R. Part 101.

A parasail operator may obtain a certificate of authorization or a waiver from the FAA containing special provisions allowing deviation from the regulations, in order for the certificate of authorization to remain valid.<sup>12</sup> According to the FWC, common special provisions imposed by the FAA are:<sup>13</sup>

- Required attendance by parasail operators at an annual operator safety and standardization meeting sponsored by the FAA, if available in the area, and if an operator is unable to attend a scheduled annual meeting, the operator must arrange for an individual meeting;
- A prohibition against conducting parasail operations when the ceiling is less than 1,000 feet above ground level and the ground visibility is less than 2 miles, winds are above 20 miles per hour (mph), and/or gusts of wind are occurring at 15 mph or greater;
- Time restrictions including a prohibition on parasail operations between sunset and sunrise or during any period when a suspension of airport traffic or diversion of other aircraft will cause a hardship to scheduled air carrier operations;
- Distance limits requiring that parasail operations not be conducted closer than 500 feet to any aircraft, and the parasail not be maneuvered so as to force any aircraft toward the swim line (an imaginary line along the coast marking the offshore boundary where most people are likely to swim) or a populated beach;
- A requirement that parasail operators yield the right-of-way to all aircraft;
- Constant observation by the vessel captain and all crew members of the parasail and surrounding airspace to ensure safety, with the observers in a position to observe the operation and airspace and to halt or restrict the parasail operations if necessary; and
- A requirement that the holder of the Certificate of Waiver or Authorization contact the air traffic control tower of an airport when proposed parasail operations are to be conducted within five miles of the airport, at least one week prior to conducting parasail operations, for the purpose of providing real-time notice of activities including the proposed area of operation, the duration of the activity, and the altitude of the parasail.

The U.S. Coast Guard issued a Marine Safety Alert regarding parasailing operations on July 22, 2013.<sup>14</sup> The alert noted that a series of parasail incidents since 2006 have resulted in 11 deaths and 52 injuries. It noted that maintenance of equipment and weather conditions have contributed to the injuries and deaths. The alert referenced the “Standard Guide for Monitoring Weather Conditions for Safe Parasail Operation,”<sup>15</sup> that was adopted by the industry.<sup>16</sup> The industry is currently working on standards for crew requirements, equipment specifications, and

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<sup>12</sup> Title 14 C.F.R. s. 101.3.

<sup>13</sup> See *supra* note 1.

<sup>14</sup> See [https://homeport.uscg.mil/mycg/portal/ep/contentView.do?channelId=-18377&contentId=462203&programId=13099&programPage=%2Fep%2Fprogram%2Feditorial.jsp&pageTypeId=13489&contentType=EDITORIAL&BV\\_SessionID=@@@0156888141.1387827427@@@@&BV\\_EngineID=cccdadflkleffhkcfngcfkmdfhfdgfm.0](https://homeport.uscg.mil/mycg/portal/ep/contentView.do?channelId=-18377&contentId=462203&programId=13099&programPage=%2Fep%2Fprogram%2Feditorial.jsp&pageTypeId=13489&contentType=EDITORIAL&BV_SessionID=@@@0156888141.1387827427@@@@&BV_EngineID=cccdadflkleffhkcfngcfkmdfhfdgfm.0) (Last visited December 23, 2013).

<sup>15</sup> Develop by ASTM International, formerly known as the American Society for Testing and Materials (ASTM).

<sup>16</sup> See ASTM Standard F2993-13 published on April 1, 2013 at <http://www.astm.org/Standards/F2993.htm> (Last visited December 23, 2013).

owner/operator operational guidelines for parasailing operations.<sup>17</sup> However, these standards are voluntary recommendations and there is no enforcement authority in place.

### III. Effect of Proposed Changes:

**Section 1** of the bill provides that the title for the act is the White-Miskell Act. The bill is named for two women who died from parasailing accidents in Pompano Beach. Amber White, 15, died in 2007 after windy conditions caused the line connecting the parasail she and her sister were riding to break free of its vessel and they collided with a hotel roof. Kathleen Miskell, 28, died in 2012 after a harness malfunction caused her to drop 200 feet into the water where she drowned.

**Section 2** of the bill amends s. 327.02, F.S., to define commercial parasailing as the towing (for consideration) of a person by a motorboat, when one or more persons are tethered to the vessel, ascend above the water, and remain suspended under a canopy while the vessel is underway (excluding ultralight air vehicles). The bill also defines sustained wind speed as a wind speed determined by averaging the observed wind speed rounded up to the nearest whole knot of speed over a two-minute period.

**Section 3** of the bill creates s. 327.375, F.S., which requires that:

- Minimum bodily injury liability insurance coverage of at least \$1 million per occurrence and \$2 million annual aggregate obtained and maintained by the owner or operator of a vessel;
- Proof of insurance must be available for inspection at the location where commercial parasailing is offered or provided for consideration;
- The insurance carrier's name and address and the policy number to customers requesting that information;
- A current and valid license issued by the United States Coast Guard to the person operating the parasailing vessel which is appropriate for the number of passengers and the size of the vessel;
- A parasailing vessel must be equipped with a functional VHF marine transceiver and a separate electronic device capable of providing access to National Weather forecasts and current weather conditions;
- An operator must use all available means to determine weather conditions and record this information in a weather log each time passengers are to be taken out on the water; and
- Recorded weather information should be available for inspection at all times at the operator's place of business.

A person or operator who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.<sup>18</sup>

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<sup>17</sup> See ASTM Subcommittee F24.65 on Parasailing at <http://www.astm.org/COMMIT/SUBCOMMIT/F2465.htm> (Last visited December 23, 2013).

<sup>18</sup> Sections 775.082, and 775.083, F.S., provide that a misdemeanor of the second degree are punishable by up to 60 days in jail, a fine of up to \$500, or both at the discretion of the Court.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

According to the FWC, commercial parasailing operators in Florida may incur additional costs to obtain the insurance coverage stated in the bill, and those costs are difficult to estimate because they will vary with each operator's claims history and current coverage amounts.<sup>19</sup>

According to an industry representative that offers this type of insurance, operators generally do carry some type of insurance for their operations. Many times, they are tenants of a hotel, marina or local government that requires them to carry insurance as a condition of their lease or agreement.

## C. Government Sector Impact:

According to the FWC, there may be a fiscal impact from costs associated with FWC law enforcement officers educating current commercial parasailing operators on new regulations and how operators may come into compliance.<sup>20</sup> The impact is estimated to be nominal and can likely be absorbed within existing resources.<sup>21</sup>

**VI. Technical Deficiencies:**

None.

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<sup>19</sup> 2014 Legislative Analysis for SB 320, Legislative Affairs Office, Florida Fish and Wildlife Conservation Commission undated.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 327.02, 320.08, 327.391, 328.17, 342.07, 713.78, and 715.07.

This bill creates section 327.375 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

By Senator Sachs

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1 A bill to be entitled  
 2 An act relating to commercial parasailing; providing a  
 3 short title; amending s. 327.02, F.S.; defining terms;  
 4 creating s. 327.375, F.S.; requiring the operator of a  
 5 vessel engaged in commercial parasailing to ensure  
 6 that specified requirements are met; requiring the  
 7 owner of a vessel engaged in commercial parasailing to  
 8 obtain and maintain an insurance policy; providing  
 9 minimum coverage requirements for the insurance  
 10 policy; providing requirements for proof of insurance;  
 11 specifying the insurance information that must be  
 12 provided upon request; requiring the operator to have  
 13 a current and valid license issued by the United  
 14 States Coast Guard; prohibiting commercial parasailing  
 15 unless certain equipment is present on the vessel and  
 16 certain weather conditions are met; requiring that a  
 17 weather log be maintained and made available for  
 18 inspection; providing a criminal penalty; amending ss.  
 19 320.08, 327.391, 328.17, 342.07, 713.78, and 715.07,  
 20 F.S.; conforming cross-references; providing an  
 21 effective date.

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

24  
 25 Section 1. This act may be cited as the "White-Miskell  
 26 Act."

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

29 327.02 Definitions.—As used in this chapter and in chapter

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30 328, unless the context clearly requires a different meaning,  
 31 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 a 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) "Commercial parasailing" means providing or offering to  
 52 provide, for consideration, any activity involving the towing of  
 53 a person by a motorboat if:  
 54 (a) One or more persons are tethered to the towing vessel;  
 55 (b) The person or persons ascend above the water; and  
 56 (c) The person or persons remain suspended under a canopy,  
 57 chute, or parasail above the water while the vessel is underway.  
 58

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59 The term does not include ultralight glider towing conducted  
 60 under rules of the Federal Aviation Administration governing  
 61 ultralight vehicles as defined in 14 C.F.R. part 103.

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

63 (a) 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 a ~~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 or to a ~~retail dealer,~~ or  
 69 wholesale 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 a ~~any~~ person authorized by the  
 75 Department of Revenue to buy, sell, resell, or otherwise  
 76 distribute vessels. Such person must ~~shall~~ have a valid sales  
 77 tax certificate of registration issued by the Department of  
 78 Revenue and a valid commercial or occupational license required  
 79 by any county, municipality, or political subdivision of the  
 80 state in 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, an each  
 92 entity used as a residence, place of business or office with  
 93 public access; a ~~hotel or motel;~~ a ~~restaurant or lounge;~~ a  
 94 ~~clubhouse;~~ a ~~meeting facility;~~ a ~~storage or parking facility;~~  
 95 or a ~~mining platform, dredge, dragline, or similar facility or~~  
 96 entity represented as such. Floating structures are expressly  
 97 excluded from the definition of the term "vessel" provided in  
 98 this section. Incidental movement upon water or resting  
 99 partially or entirely on the bottom does ~~shall~~ not, in and of  
 100 itself, preclude an entity from classification as a floating  
 101 structure.

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

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

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

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

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

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

138 (17)(16) "Lienholder" means a person holding a security  
 139 interest in a vessel, which interest is recorded with the  
 140 Department of Highway Safety and Motor Vehicles pursuant to s.  
 141 328.15.

142 (18)(17) "Live-aboard vessel" means:

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

145 (b) A Any vessel represented as a place of business or a

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146 professional or other commercial enterprise; or

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

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

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

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

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

164 (22)(21) "Marine sanitation device" means any equipment,  
 165 other than a toilet, for installation on board a vessel, which  
 166 is designed to receive, retain, treat, or discharge sewage, and  
 167 any process to treat such sewage. Marine sanitation device Types  
 168 I, II, and III shall be defined as provided in 33 C.F.R. part  
 169 159.

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

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175 limited to, a sign, beacon, buoy, or light.

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

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

184 (26)~~(25)~~ "Navigation rules" means, for vessels on:

185 (a) ~~For vessels on~~ Waters outside ~~of~~ established  
186 navigational lines of demarcation as specified in 33 C.F.R. part  
187 80, the International Navigational Rules Act of 1977, 33 U.S.C.  
188 s. 1602, as amended, including the appendix and annexes thereto,  
189 through October 1, 2012.

190 (b) ~~For vessels on~~ All waters not outside of such  
191 established lines of demarcation, the Inland Navigational Rules  
192 Act of 1980, 33 C.F.R. parts 83-90, as amended, through October  
193 1, 2012.

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

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

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204 or steer a vessel being towed by another vessel upon the waters  
205 of the state.

206 (29)~~(28)~~ "Owner" means a person, other than a lienholder,  
207 having the property in or title to a vessel. The term includes a  
208 person entitled to the use or possession of a vessel subject to  
209 an interest in another person which is, reserved or created by  
210 agreement and securing payment of performance of an obligation, ~~r~~  
211 ~~but~~ The term does not include ~~excludes~~ a lessee under a lease  
212 not intended as security.

213 (30)~~(29)~~ "Person" means an individual, partnership, firm,  
214 corporation, association, or other entity.

215 (31)~~(30)~~ "Personal watercraft" means a vessel less than 16  
216 feet in length which uses an inboard motor powering a water jet  
217 pump, as its primary source of motive power and which is  
218 designed to be operated by a person sitting, standing, or  
219 kneeling on the vessel, rather than in the conventional manner  
220 of sitting or standing inside the vessel.

221 (32)~~(31)~~ "Portable toilet" means a device consisting of a  
222 lid, seat, containment vessel, and support structure which ~~that~~  
223 is specifically designed to receive, retain, and discharge human  
224 waste and which ~~that~~ is capable of being removed from a vessel  
225 by hand.

226 (33)~~(32)~~ "Prohibited activity" means ~~such~~ activity that ~~as~~  
227 will impede or disturb navigation or creates a safety hazard on  
228 waterways of this state.

229 (34)~~(33)~~ "Racing shell," "rowing scull," or "racing kayak"  
230 means a manually propelled vessel that ~~which~~ is recognized by  
231 national or international racing associations for use in  
232 competitive racing and in which all occupants, with the

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233 exception of a coxswain, if one is provided, row, scull, or  
 234 paddle and ~~that which~~ is not designed to carry and does not  
 235 carry any equipment not solely for competitive racing.  
 236 ~~(35)-(34)~~ "Recreational vessel" means a any vessel:  
 237 (a) Manufactured and used primarily for noncommercial  
 238 purposes; or  
 239 (b) Leased, rented, or chartered to a person for his or her  
 240 ~~the person's~~ noncommercial use.  
 241 ~~(36)-(35)~~ "Registration" means a state operating license on  
 242 a vessel which is issued with an identifying number, an annual  
 243 certificate of registration, and a decal designating the year  
 244 for which a registration fee is paid.  
 245 ~~(37)-(36)~~ "Resident" means a citizen of the United States  
 246 who has established residence in this state and has continuously  
 247 resided in this state for 1 year and in one county for the 6  
 248 months immediately preceding the initiation of a vessel titling  
 249 or registration action.  
 250 ~~(38)-(37)~~ "Sailboat" means a any vessel whose sole source of  
 251 propulsion is the wind.  
 252 ~~(39)~~ "Sustained wind speed" means a wind speed determined  
 253 by averaging the observed wind speed rounded up to the nearest  
 254 mile per hour over a 2-minute period.  
 255 ~~(40)-(38)~~ "Unclaimed vessel" means an any undocumented  
 256 vessel, including its machinery, rigging, and accessories, which  
 257 is in the physical possession of a any marina, garage, or repair  
 258 shop for repairs, improvements, or other work with the knowledge  
 259 of the vessel owner and for which the costs of such services  
 260 have been unpaid for more than a period in excess of 90 days  
 261 after from the date written notice of the completed work is

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262 given by the marina, garage, or repair shop to the vessel owner.  
 263 ~~(41)-(39)~~ "Vessel" is synonymous with boat as referenced in  
 264 s. 1(b), Art. VII of the State Constitution and includes every  
 265 description of watercraft, barge, and airboat, other than a  
 266 seaplane on the water, used or capable of being used as a means  
 267 of transportation on water.  
 268 ~~(42)-(40)~~ "Waters of this state" means any navigable waters  
 269 of the United States within the territorial limits of this  
 270 state, ~~and~~ the marginal sea adjacent to this state and the high  
 271 seas when navigated as a part of a journey or ride to or from  
 272 the shore of this state, and all the inland lakes, rivers, and  
 273 canals under the jurisdiction of this state.  
 274 Section 3. Section 327.375, Florida Statutes, is created to  
 275 read:  
 276 327.375 Commercial parasailing.—  
 277 (1) The operator of a vessel engaged in commercial  
 278 parasailing shall ensure that the provisions of this section and  
 279 s. 327.37 are met.  
 280 (2) The owner or operator of a vessel engaged in commercial  
 281 parasailing may not offer or provide for consideration any  
 282 parasailing activity unless the owner or operator first obtains  
 283 and maintains in full force and effect a liability insurance  
 284 policy from an insurance carrier licensed in this state or  
 285 approved by the Office of Insurance Regulation or an eligible  
 286 surplus lines insurer. Such policy must provide bodily injury  
 287 liability coverage in the amounts of at least \$1 million per  
 288 occurrence and \$2 million annual aggregate. Proof of insurance  
 289 must be available for inspection at the location where  
 290 commercial parasailing is offered or provided for consideration,

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291 and each customer who requests such proof shall be provided with  
 292 the insurance carrier's name and address and the insurance  
 293 policy number.

294 (3) The operator of a vessel engaged in commercial  
 295 parasailing must have a current and valid license issued by the  
 296 United States Coast Guard authorizing the operator to carry  
 297 passengers for hire. The license must be appropriate for the  
 298 number of passengers carried and the displacement of the vessel.  
 299 The license must be carried on the vessel and be available for  
 300 inspection while engaging in commercial parasailing activities.

301 (4) A vessel engaged in commercial parasailing must be  
 302 equipped with a functional VHF marine transceiver and a separate  
 303 electronic device capable of providing access to National  
 304 Weather Service forecasts and current weather conditions.

305 (5) (a) Commercial parasailing is prohibited if the current  
 306 observed wind conditions in the area of operation include a  
 307 sustained wind speed of more than 20 miles per hour; if wind  
 308 gusts are 15 miles per hour higher than the sustained wind  
 309 speed; if the wind speed during gusts exceeds 25 miles per hour;  
 310 if rain or heavy fog results in reduced visibility of less than  
 311 0.5 mile; or if a known lightning storm comes within 7 miles of  
 312 the parasailing area.

313 (b) The operator of the vessel engaged in commercial  
 314 parasailing shall use all available means to determine  
 315 prevailing and forecasted weather conditions and record this  
 316 information in a weather log each time passengers are to be  
 317 taken out on the water. The weather log must be available for  
 318 inspection at all times at the operator's place of business.

319 (6) A person or operator who violates this section commits

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320 a misdemeanor of the second degree, punishable as provided in s.  
 321 775.082 or s. 775.083.

322 Section 4. Paragraph (d) of subsection (5) of section  
 323 320.08, Florida Statutes, is amended to read:

324 320.08 License taxes.—Except as otherwise provided herein,  
 325 there are hereby levied and imposed annual license taxes for the  
 326 operation of motor vehicles, mopeds, motorized bicycles as  
 327 defined in s. 316.003(2), tri-vehicles as defined in s. 316.003,  
 328 and mobile homes, as defined in s. 320.01, which shall be paid  
 329 to and collected by the department or its agent upon the  
 330 registration or renewal of registration of the following:

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

333 (d) A wrecker, as defined in s. 320.01, which is used to  
 334 tow a vessel as defined in s. 327.02~~(39)~~, a disabled, abandoned,  
 335 stolen-recovered, or impounded motor vehicle as defined in s.  
 336 320.01, or a replacement motor vehicle as defined in s. 320.01:  
 337 \$41 flat, of which \$11 shall be deposited into the General  
 338 Revenue Fund.

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

341 327.391 Airboats regulated.—

342 (1) The exhaust of every internal combustion engine used on  
 343 any airboat operated on the waters of this state shall be  
 344 provided with an automotive-style factory muffler, underwater  
 345 exhaust, or other manufactured device capable of adequately  
 346 muffling the sound of the exhaust of the engine as described in  
 347 s. 327.02(25) ~~s. 327.02(24)~~. The use of cutouts or flex pipe as  
 348 the sole source of muffling is prohibited, except as provided in

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349 subsection (4). Any person who violates this subsection commits  
350 a noncriminal infraction punishable as provided in s. 327.73(1).

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

353 328.17 Nonjudicial sale of vessels.—

354 (4) A marina, as defined in s. 327.02(20), shall have:

355 (a) A possessory lien upon any vessel for storage fees,  
356 dockage fees, repairs, improvements, or other work-related  
357 storage charges, and for expenses necessary for preservation of  
358 the vessel or expenses reasonably incurred in the sale or other  
359 disposition of the vessel. The possessory lien attaches ~~shall~~  
360 ~~attach~~ as of the date the vessel is brought to the marina or as  
361 of the date the vessel first occupies rental space at the marina  
362 facility.

363 (b) A possessory lien upon any vessel in a wrecked, junked,  
364 or substantially dismantled condition, which has been left  
365 abandoned at a marina, for expenses reasonably incurred in the  
366 removal and disposal of the vessel. The possessory lien attaches  
367 ~~shall attach~~ as of the date the vessel arrives at the marina or  
368 as of the date the vessel first occupies rental space at the  
369 marina facility. If the funds recovered from the sale of ~~the~~  
370 ~~vessel~~, or from the scrap or salvage value of the vessel, are  
371 insufficient to cover the expenses reasonably incurred by the  
372 marina in removing and disposing of the vessel, all costs in  
373 excess of recovery shall be recoverable against the owner of the  
374 vessel. For a vessel damaged as a result of a named storm, the  
375 provisions of this paragraph shall be suspended for 60 days  
376 after following the date the vessel is damaged in the named  
377 storm. The operation of the provisions specified in this

Page 13 of 15

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

34-00477-14

2014320\_\_

378 paragraph run concurrently with, and do not extend, the 60-day  
379 notice periods provided in subsections (5) and (7).

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

382 342.07 Recreational and commercial working waterfronts;  
383 legislative findings; definitions.—

384 (2) As used in this section, the term “recreational and  
385 commercial working waterfront” means a parcel or parcels of real  
386 property which ~~that~~ provide access for water-dependent  
387 commercial activities, including hotels and motels as defined in  
388 s. 509.242(1), or provide access for the public to the navigable  
389 waters of the state. Recreational and commercial working  
390 waterfronts require direct access to or a location on, over, or  
391 adjacent to a navigable body of water. The term includes water-  
392 dependent facilities that are open to the public and offer  
393 public access by vessels to the waters of the state or that are  
394 support facilities for recreational, commercial, research, or  
395 governmental vessels. These facilities include public lodging  
396 establishments, docks, wharfs, lifts, wet and dry marinas, boat  
397 ramps, boat hauling and repair facilities, commercial fishing  
398 facilities, boat construction facilities, and other support  
399 structures over the water. As used in this section, the term  
400 “vessel” has the same meaning as in s. 327.02(39). Seaports are  
401 excluded from the definition.

402 Section 8. Paragraph (b) of subsection (1) of section  
403 713.78, Florida Statutes, is amended to read:

404 713.78 Liens for recovering, towing, or storing vehicles  
405 and vessels.—

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

Page 14 of 15

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

34-00477-14

2014320\_\_

407 (b) "Vessel" means every description of watercraft, barge,  
408 and airboat used or capable of being used as a means of  
409 transportation on water, other than a seaplane or a "documented  
410 vessel" as defined in s. 327.02~~(9)~~.

411 Section 9. Paragraph (b) of subsection (1) of section  
412 715.07, Florida Statutes, is amended to read:

413 715.07 Vehicles or vessels parked on private property;  
414 towing.-

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

416 (b) "Vessel" means every description of watercraft, barge,  
417 and airboat used or capable of being used as a means of  
418 transportation on water, other than a seaplane or a "documented  
419 vessel" as defined in s. 327.02~~(9)~~.

420 Section 10. This act shall take effect October 1, 2014.



The Florida Senate

## Committee Agenda Request

**To:** Senator Kelli Stargel, Chair  
Committee on Regulated Industries

**Subject:** Committee Agenda Request

**Date:** November 12, 2013

---

I respectfully request that **Senate Bill # 320**, relating to Commercial Parasailing, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in cursive script, appearing to read "Maria Sachs".

---

Senator Maria Sachs  
Florida Senate, District 43

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Regulated Industries

---

**BILL:** SB 356

**INTRODUCER:** Senator Thrasher and others

**SUBJECT:** Regulation of Public Lodging Establishments and Public Food Service Establishments

**DATE:** January 6, 2014      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	<b>Favorable</b>
2.			CA	

**I. Summary:**

SB 356 repeals the provision in s. 509.032(7), F.S., that prohibits local laws, ordinances, or regulations from restricting the use of vacation rentals, prohibiting vacation rentals, or regulating vacation rentals based solely on their classification, use, or occupancy.

**II. Present Situation:**

The Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (department) is the state agency charged with enforcing the provisions of ch. 509, F.S., and all other applicable laws relating to the inspection and regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare.

The term “public lodging establishments” includes transient and nontransient public lodging establishments.<sup>1</sup> The principal differences between transient and nontransient public lodging establishments are the number of times that the establishments are rented in a calendar year and the length of the rentals.

Section 509.013(4)(a)1., F.S., defines a “transient public lodging establishment” to mean:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or

---

<sup>1</sup> Section 509.013(4)(a), F.S.

which is advertised or held out to the public as a place regularly rented to guests. Section 509.013(4)(a)2., F.S., defines a "nontransient public lodging establishment" to mean:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month.

Section 509.013(4)(b), F.S., exempts the following types of establishments from the definition of "public lodging establishment":

1. Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors.
2. Any facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Family Services or other similar place regulated under s. 381.0072.
3. Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients.
4. Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or 1 calendar month, whichever is less, and that is not advertised or held out to the public as a place regularly rented for periods of less than 1 calendar month, provided that no more than four rental units within a single complex of buildings are available for rent.
5. Any migrant labor camp or residential migrant housing permitted by the Department of Health under ss. 381.008-381.00895.
6. Any establishment inspected by the Department of Health and regulated by chapter 513.
7. Any nonprofit organization that operates a facility providing housing only to patients, patients' families, and patients' caregivers and not to the general public.
8. Any apartment building inspected by the United States Department of Housing and Urban Development or other entity acting on the department's behalf that is designated primarily as housing for persons at least 62 years of age. The division may require the operator of the apartment building to attest in writing that such building meets the criteria provided in this subparagraph. The division may adopt rules to implement this requirement.
9. Any roominghouse, boardinghouse, or other living or sleeping facility that may not be classified as a hotel, motel, vacation rental, nontransient apartment, bed and breakfast inn, or transient apartment under s. 509.242.

Public lodging establishments are classified as a hotel, motel, vacation rental, nontransient apartment, transient apartment, or bed and breakfast inn.<sup>2</sup>

Section 509.242(1)(c), F.S., defines the term “vacation rental” as:

any unit or group of units in a condominium, cooperative, or timeshare plan or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment.

The 37,115 public lodging establishments licensed by the division are distributed as follows:<sup>3</sup>

- Hotels – 1,676 licensees;
- Motels – 2,751 licensees;
- Nontransient apartments – 17,515 licenses;
- Transient apartments – 981 licenses;
- Bed and Breakfast Inns – 262 licenses;
- Vacation rental condominiums – 3,608 licenses; and
- Vacation rental dwellings – 10,362 licenses.

The department licenses vacation rentals either as condominiums or dwellings.<sup>4</sup> A vacation rental license will be issued for “a single-family house, a townhouse, or a unit or group of units in a duplex, triplex, quadruplex, or other dwelling unit that has four or less units collectively.”<sup>5</sup>

Section 509.032(7)(a), F.S., provides that “the regulation of public lodging establishments and public food service establishments, including, but not limited to, sanitation standards, inspections, training and testing of personnel, and matters related to the nutritional content and marketing of foods offered in such establishments, is preempted to the state.” This section was amended in 2011 to add the provisions relating to local government zoning of vacation rentals.<sup>6</sup>

Section 509.032(7)(b), F.S., provides that local laws, ordinances, or regulations may not restrict the use of vacation rentals, prohibit vacation rentals, or regulate vacation rentals based solely on their classification, use, or occupancy. However, this prohibition does not apply to any local law, ordinance, or rule adopted on or before June 1, 2011.

---

<sup>2</sup> Section 509.242(1), F.S.

<sup>3</sup> *Division of Hotels and Restaurants Annual Report for FY 2012-2013*, Department of Business and Professional Regulation, A copy of the report is available at: [http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2012\\_13.pdf](http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2012_13.pdf) (Last visited January 6, 2014).

<sup>4</sup> Rule 61C-1.002(4)(a)1., F.A.C.

<sup>5</sup> Vacation rental dwellings are divided into single - 9,459, group - 91, and collective – 812. A single license may include one single-family house or townhouse, or a unit or group of units within a single building that are owned and operated by the same individual person or entity. A group license is a license issued by the division to a licensed agent to cover all units within a building or group of buildings in a single complex. A collective license is a license issued by the division to a licensed agent who represents a collective group of houses or units found on separate locations not to exceed 75 houses per license.

<sup>6</sup> See s. 2, ch. 2011-119, L.O.F.

Section 509.032(7)(c), F.S., provides that prohibition in s. Section 509.032(7)(b), F.S., does not apply prohibition local laws, ordinances, or regulations exclusively relating to property valuation as a criterion for vacation rental if it is required to be approved by the Department of Community Affairs (DCA) pursuant to an area of critical state concern designation.<sup>7</sup>

### **Attorney General Opinion**

The office of the Attorney General issued an Informal Legal Opinion on October 22, 2013, regarding whether Flagler County could intercede and stop vacation rental operations, as defined in ch. 509, F.S., in private homes that were zoned, prior to June 1, 2011, for single-family residential use.<sup>8</sup> According to the opinion, “due to an increase in the number of homes being used as vacation rentals in Flagler County, many permanent residents in neighborhoods with vacation rentals have raised concerns about the negative effects such rentals have on their quality of life and the character of their neighborhood.” Flagler County had no regulation governing before the June 1, 2011, grandfather date in s. 509.032(7)(b), F.S. The Attorney General concluded that the fact that the county had a local zoning ordinance for single-family homes existing on or before June 1, 2011, did not restrict the rental of such property as a vacation rental and that such zoning ordinances could not now be interpreted to restrict vacation rentals.

### **III. Effect of Proposed Changes:**

The bill repeals s. 509.032(7)(b) and (c), F.S. The repeal of these provisions would allow local government to enact local laws, ordinances, or regulations restricting the use of vacation rentals, prohibiting vacation rentals, or regulating vacation rentals based solely on their classification, use, or occupancy.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

---

<sup>7</sup> This exemption relates to the Village of Islamorada. According to a representative for the village, its housing ordinance is regularly amended at the DCA's direction, and without this provision they were concerned that grandfather provision in s. 509.032(7)(b), F.S., would not be sufficient.

<sup>8</sup> Florida Attorney General, Informal Legal Opinion to Mr. Albert Hadeed, Flagler County Attorney, regarding “Vacation Rental Operation-Local Ordinances,” dated October 22, 2013.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The bill does not directly impact the operation of vacation rentals. However, the owners of vacation rentals may be affected by the bill to the extent that local governments amend their laws, ordinances, or regulations to restrict the use of vacation rentals, prohibit vacation rentals, or regulate vacation rentals based solely on their classification, use, or occupancy.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 509.032 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

By Senator Thrasher

6-00568-14

2014356\_\_

1 A bill to be entitled  
 2 An act relating to the regulation of public lodging  
 3 establishments and public food service establishments;  
 4 amending s. 509.032, F.S.; deleting the restriction  
 5 preventing local laws, ordinances, or regulations from  
 6 regulating the use of vacation rentals based solely on  
 7 their classification, use, or occupancy; providing an  
 8 effective date.

9  
 10 Be It Enacted by the Legislature of the State of Florida:

11  
 12 Section 1. Subsection (7) of section 509.032, Florida  
 13 Statutes, is amended to read:

14 509.032 Duties.—

15 (7) PREEMPTION AUTHORITY.—

16 ~~(a)~~ The regulation of public lodging establishments and  
 17 public food service establishments, including, but not limited  
 18 to, sanitation standards, inspections, training and testing of  
 19 personnel, and matters related to the nutritional content and  
 20 marketing of foods offered in such establishments, is preempted  
 21 to the state. This subsection ~~paragraph~~ does not preempt the  
 22 authority of a local government or local enforcement district to  
 23 conduct inspections of public lodging and public food service  
 24 establishments for compliance with the Florida Building Code and  
 25 the Florida Fire Prevention Code, pursuant to ss. 553.80 and  
 26 633.206.

27 ~~(b) A local law, ordinance, or regulation may not restrict~~  
 28 ~~the use of vacation rentals, prohibit vacation rentals, or~~  
 29 ~~regulate vacation rentals based solely on their classification,~~

Page 1 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

6-00568-14

2014356\_\_

30 ~~use, or occupancy. This paragraph does not apply to any local~~  
 31 ~~law, ordinance, or regulation adopted on or before June 1, 2011.~~  
 32 ~~(c) Paragraph (b) does not apply to any local law,~~  
 33 ~~ordinance, or regulation exclusively relating to property~~  
 34 ~~valuation as a criterion for vacation rental if the local law,~~  
 35 ~~ordinance, or regulation is required to be approved by the state~~  
 36 ~~land planning agency pursuant to an area of critical state~~  
 37 ~~concern designation.~~

38 Section 2. This act shall take effect July 1, 2014.

Page 2 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR JOHN THRASHER**  
6th District

**COMMITTEES:**

Rules, *Chair*  
Appropriations  
Appropriations Subcommittee on Education  
Appropriations Subcommittee on Health  
and Human Services  
Community Affairs  
Ethics and Elections  
Gaming  
Judiciary  
Regulated Industries

**JOINT COMMITTEE:**

Joint Legislative Budget Commission

December 10, 2013

## MEMORANDUM

**To:** Senator Kelli Stargel, Chairman  
Senate Regulated Industries Committee

**Fm:** Senator John Thrasher

**Re:** Senate Bill 356 relating to Regulation of Public Lodging Establishments

---

It will be appreciated if you will agenda my Senate Bill 356 for a hearing by the Senate Regulated Industries Committee at your earliest convenience.

Thank you for your consideration of this request.

REPLY TO:

- 113 Nature Walk Parkway, Suite 106, St. Augustine, Florida 32092 (904) 287-4222 FAX: 1-888-263-3475
- 400 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**DON GAETZ**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/9/14

Meeting Date

Topic VACATION RENTALS Bill Number SB 356

Name CHARLES F. ERICKSEN JR Amendment Barcode \_\_\_\_\_ (if applicable)

Job Title COUNTY COMMISSIONER (if applicable)

Address 15 ESSINGTON LN Phone 386-206-3717

Street

PALM COAST, FL 32164 E-mail CERICKSEN@CFL

City

State

Zip

RR,  
COM

Speaking:  For  Against  Information

Representing FLAGLER COUNTY

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-9-14

Meeting Date

Topic Vacation Rentals

Bill Number SB 356  
*(if applicable)*

Name Frank Meeker

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Flagler County BOCC

Address 41 Cochise ct  
*Street*

Phone 386-503-7500

Palm Coast FL 32137  
*City State Zip*

E-mail Fmeeker@FlaglerCounty.org

Speaking:  For  Against  Information

Representing Flagler County

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/9/14

Meeting Date

Topic VACATION RENTALS

Bill Number SB 356  
*(if applicable)*

Name AL HARRIS

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title COUNTY ATTORNEY

Address 1769 E MOODY BLVD BLDG #2

Phone 386-313-4005

Street

BUNNELL

FL

32210

City

State

Zip

E-mail aharris@flcourts.org

Speaking:  For  Against  Information

Representing FLAGLER COUNTY

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

9  
Jan ~~17~~, 2014

Meeting Date

Topic Public Lodging Establishments

Bill Number 356  
*(if applicable)*

Name Cari Roth

Amendment Barcode N/A  
*(if applicable)*

Job Title Chair, Governmental Consulting Practice

Address 101 North Monroe Street Ste 900

Phone 850-222-8611

*Street*  
Tallahassee  
*City*

FL  
*State*

32301  
*Zip*

E-mail croth@bmo1aw.com

Speaking:  For  Against  Information

Representing sarasota, manatee, and charlotte counties

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/9/14  
Meeting Date

Topic PUBLIC LODGING

Bill Number 356  
(if applicable)

Name STEPHEN JAMES

Amendment Barcode  
(if applicable)

Job Title

Address 100 S. MONROE  
Street

Phone 922-4300

TALLAHASSEE, FL  
City State Zip

E-mail

Speaking:  For  Against  Information

Representing FLA. ASSOC. OF COUNTIES

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/09/14

Meeting Date

Topic Public Lodging Establishments

Bill Number 356  
*(if applicable)*

Name Kelly Mallette

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title \_\_\_\_\_

Address 104 W Jefferson Street

Phone 850-224-3427

Street

Tallahassee, FL 32301

E-mail kelly@rlbodepa.com

City

State

Zip

Speaking:  For  Against  Information

Representing City of Ft. Lauderdale

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-9-14  
Meeting Date

Topic Vacation rentals

Bill Number 356  
*(if applicable)*

Name Lori Killinger

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title attorney

Address 301 S. Calhoun St.

Phone 850 222 5702

Tallahassee FL 32301  
City State Zip

E-mail lkillinge@llw-law.com

Speaking:  For  Against  Information

Representing FL Vacation Rental Managers Assn.

Appearing at request of Chair:  Yes  No

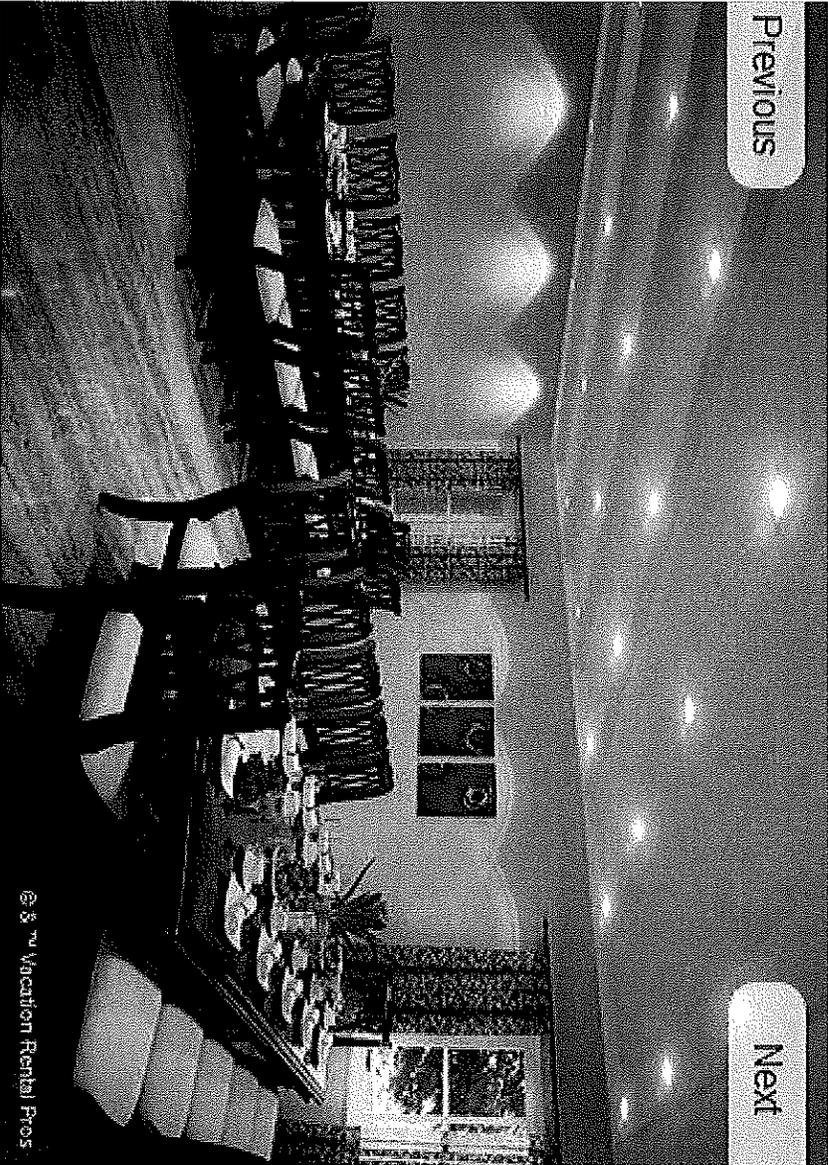
Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

Previous

Next



### The dining room tables seat 24

The dining room tables seat 24, with more space at the breakfast bar and captain's table.

## Atlantis Beach House

 Diamond **FREE WIFI**

New property, not yet rated.

Atlantis is rising! This Palatial 9,000 sqft home will be ready February 2014! Equipped with state-of-the-art electronics, a theatre room, game room, heated pool & spa, elevator, 2 kitchenettes, 1 huge kitchen, dining area for 24+ master suites & more.

Only \$300 to Book Now!

**Book Now**

- Palm Coast
- Beaches/Garden View
- 11 Bedrooms
- 10 Bathrooms
- Sleeps: 24
- HD TVs
- Elevator
- No Smoking Rental



Tweet

*"Boasting 9,000 square feet of luxury living, Atlantis is on schedule to be completed by February 2014. It is equipped with state-of-the-art electronics, a theatre room, game room, heated pool & spa, elevator, 2 kitchenettes, 1 huge kitchen, dining area for 24+, master suites, & much more."*

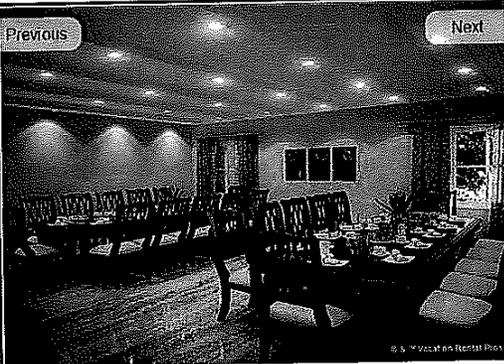
Source: [www.vacationrentalpros.com](http://www.vacationrentalpros.com); January 6, 2014

# VACATION RENTALS

“The whole idea that you could have 24 or so people in a particular home in a residential neighborhood kind of spoils the whole concept of a residential neighborhood.”

-Senator John Thrasher

Previous
Next



The dining room tables seat 24

The dining room tables seat 24, with more space at the breakfast bar and captain's table.

**Atlantis Beach House**  
 Diamond FREE WiFi  
 New property, not yet rated.

Atlantis is rising! This Palatial 6,000 sqft home will be ready February 2014! Equipped with state-of-the-art electronics, a theatre room, game room, heated pool, 2 spas, 2 kitchenettes, 1 huge kitchen, dining area for 24+ master suites & more.

Only \$300 to Book Now! [Book Now](#)

- Palm Coast
- West Village Garden View
- 11 Bedrooms
- 10 Bathrooms
- Sleeps: 24
- Elevator
- No Smoking Rental




In 2011, the Florida Legislature passed HB 883, which blocked local governments from “regulating, restricting, or prohibiting” vacation rental properties in any way, except communities that had regulations on vacation rentals in place prior to the passage of the legislation, or those who successfully lobbied to have an exception included in the bill. Jurisdiction over vacation rental properties was given exclusively to the State of Florida under the Department of Business and Professional Regulation (DBPR), an agency that had no prior history in the regulation and control of these properties. The DBPR has not adopted any standards for vacation rentals since the passage of the legislation, and is not staffed for these functions, leaving these properties essentially unregulated. In doing this, HB 883 removed the home rule authority of Florida’s cities and counties to deal with the local issues faced by their communities.

By pre-empting the regulation of vacation rentals to the State, HB 883 has seriously impacted neighborhoods throughout Florida. The absence of regulations on vacation rentals has allowed these large commercial

rental activities to take place in quiet residential communities, in many cases allowing single family homes to be occupied by over 20 people for time periods as short as one day, right next door to permanent residents. The impacts on parking, noise, garbage collection, and other community concerns have been staggering. In essence, HB 883 has allowed commercial hotel and motel type operations in Florida’s residential neighborhoods - except for those communities that already had regulations in place.

By “grandfathering” regulations that were in place prior to the passage of HB 883 in 2011, the bill created a regulatory loophole, resulting in an uneven playing field among Florida’s cities and counties. Some communities are still able to regulate and control vacation rentals, while in other communities, vacation rentals are a free-for-all, operating with no state or local oversight.



2014 Legislative Priorities

**Support legislation to repeal the provisions of HB 883 relating to vacation rentals**



# CourtSmart Tag Report

**Room:** SB 301  
**Caption:** Regulated Industries

**Case:**  
**Judge:**

**Type:**

**Started:** 1/9/2014 9:34:09 AM  
**Ends:** 1/9/2014 10:29:41 AM      **Length:** 00:55:33

9:35:00 AM Senator Sachs is excused and SB 320 is TPd  
9:35:20 AM Tab 1 - SB 342 by Senator Bradley - Clean Air Act  
9:36:34 AM Senator Gibson for a question  
9:37:04 AM Senator Bradley for response  
9:38:07 AM Senator Detert for question  
9:38:25 AM Senator Bradley for a response  
9:40:59 AM Senator Sobel for a question  
9:41:30 AM Senator Bradley for a response  
9:42:16 AM David Cullen waives in support  
9:42:22 AM Casey Cook waives in support  
9:42:29 AM susan harbin waives in support  
9:42:35 AM Cari Roth waives in support  
9:42:42 AM Jim Daughton waives in support  
9:42:59 AM Marsha Hosack waives in support  
9:43:20 AM JC Canabal waives in support  
9:43:25 AM Senator Bradely to close  
9:43:44 AM Call the roll on SB 342  
9:43:58 AM SB 342 is reported favorably  
9:44:18 AM Tab 3 - SB 356 - Public Lodging Establishment by Senator Thrasher  
9:47:55 AM Questions?  
9:48:03 AM Senator Braynon for a question  
9:48:13 AM Senator Thrasher for response  
9:49:42 AM Senator Stargel for question?  
9:49:49 AM Senator Thrasher for response  
9:50:02 AM Public Testimony  
9:50:10 AM Casey Cook, FL League of Cities  
9:51:53 AM Senator Stargel for question  
9:52:31 AM Frank Meeker, Flagler County  
9:57:12 AM Senator Legg for a question  
10:00:33 AM County Attorney for Flagler County for a response  
10:02:20 AM Senator Stargel for a question  
10:04:37 AM Senator Braynon for a question  
10:06:14 AM Senator Thrasher for a response  
10:10:36 AM Senators Braynon and Gibson for quesitons  
10:11:57 AM Charles Erickson in support  
10:12:22 AM Cari Roth, Sarasota and Manatee counties  
10:13:47 AM Stephen James FL Assoc of Counties waives in support  
10:13:56 AM Kelly Mallette waives in support  
10:14:20 AM Lori Killinger, FL Vacation Rental Managers Assn.  
10:24:28 AM Questions by Senators  
10:24:50 AM Debate?  
10:24:56 AM Senator Sobel  
10:26:33 AM Chair Stargel for comments  
10:27:36 AM Senator Thrasher recognized to close  
10:29:11 AM Roll call on SB 356  
10:29:27 AM SB 356 is reported favorably  
10:29:33 AM Senator Sobel moves we rise

**THE FLORIDA SENATE**

**Senator Maria Lorts Sachs**  
**Minority Leader Pro Tempore**  
District 34

Committees:

Gaming  
Vice Chair

Agriculture

Education

Appropriations  
Subcommittee on  
Education

Appropriations  
Subcommittee on  
Finance and Tax

Military Affairs, Space,  
and Domestic Security

Regulated Industries

**STAFF:**

Joshua Freeman  
Legislative Assistant

Matthew Damsky  
Legislative Assistant

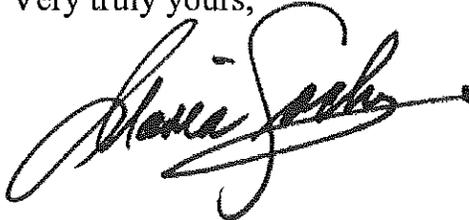
January 8, 2014

The Honorable Kelli Stargel  
324 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chair Stargel,

I will not be able to attend the Committee on Regulated Industries meeting taking place at 9:30 AM on January 9<sup>th</sup>, 2014, due to unfavorable weather conditions and cancellation of my plane flight.

Very truly yours,



Senator Maria Sachs  
District 34



CC: Booter Imhof, *Staff Director*



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Appropriations Subcommittee on Education, *Chair*  
Agriculture  
Appropriations  
Appropriations Subcommittee on Health  
and Human Services  
Education  
Gaming  
Health Policy  
Regulated Industries  
Rules

### SENATOR BILL GALVANO

26th District

January 9, 2014

Senator Kelli Stargel  
324 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399

Dear Madam Chair Stargel:

I am writing to request approval to be excused from the Regulated Industries meeting scheduled for January 9, 2014.

I appreciate your consideration in this matter.

Sincerely,

A handwritten signature in blue ink that reads "Bill".

Bill Galvano

cc.: Booter Imhof, Staff Director

#### REPLY TO:

- 1023 Manatee Avenue West, Suite 201, Bradenton, Florida 34205
- 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5026

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**DON GAETZ**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore