

2014320er

1  
2 An act relating to commercial and recreational water  
3 activities; providing a short title; amending s.  
4 327.02, F.S.; defining terms; amending s. 327.37,  
5 F.S.; prohibiting certain commercial and recreational  
6 water activities within certain areas; creating s.  
7 327.375, F.S.; requiring the operator of a vessel  
8 engaged in commercial parasailing to ensure that  
9 specified requirements are met; requiring the owner of  
10 a vessel engaged in commercial parasailing to obtain  
11 and maintain an insurance policy; providing minimum  
12 coverage requirements for the insurance policy;  
13 providing requirements for proof of insurance;  
14 specifying the insurance information that must be  
15 provided upon request; requiring the operator to have  
16 a current and valid license issued by the United  
17 States Coast Guard; prohibiting commercial parasailing  
18 unless certain equipment is present on the vessel and  
19 certain weather conditions are met; requiring that a  
20 weather log be maintained and made available for  
21 inspection; providing a criminal penalty; amending ss.  
22 320.08, 327.391, 328.17, 342.07, 713.78, and 715.07,  
23 F.S.; conforming cross-references; providing an  
24 effective date.

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

27  
28 Section 1. This act may be cited as the "White-Miskell  
29 Act."

2014320er

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

32 327.02 Definitions.—As used in this chapter and in chapter  
33 328, unless the context clearly requires a different meaning,  
34 the term:

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

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

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

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

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

57 (a) One or more persons are tethered to the towing vessel;

58 (b) The person or persons ascend above the water; and

2014320er

59           (c) The person or persons remain suspended under a canopy,  
60 chute, or parasail above the water while the vessel is underway.

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

65           (6)~~(5)~~ "Commercial vessel" means:

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

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

75           (7)~~(6)~~ "Commission" means the Fish and Wildlife  
76 Conservation Commission.

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

84           (9)~~(8)~~ "Division" means the Division of Law Enforcement of  
85 the Fish and Wildlife Conservation Commission.

86           (10)~~(9)~~ "Documented vessel" means a vessel for which a  
87 valid certificate of documentation is outstanding pursuant to 46

2014320er

88 C.F.R. part 67.

89 (11)~~(10)~~ "Floating structure" means a floating entity, with  
90 or without accommodations built thereon, which is not primarily  
91 used as a means of transportation on water but which serves  
92 purposes or provides services typically associated with a  
93 structure or other improvement to real property. The term  
94 ~~"floating structure"~~ includes, but is not limited to, an ~~each~~  
95 entity used as a residence, place of business or office with  
96 public access; a~~r~~ hotel or motel; a~~r~~ restaurant or lounge; a~~r~~  
97 clubhouse; a~~r~~ meeting facility; a~~r~~ storage or parking facility;  
98 or a~~r~~ mining platform, dredge, dragline, or similar facility or  
99 entity represented as such. Floating structures are expressly  
100 excluded from the definition of the term "vessel" provided in  
101 this section. Incidental movement upon water or resting  
102 partially or entirely on the bottom does ~~shall~~ not, in and of  
103 itself, preclude an entity from classification as a floating  
104 structure.

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

2014320er

117           (13)~~(12)~~ "Homemade vessel" means a any vessel built after  
118           October 31, 1972, for which a federal hull identification number  
119           is not required to be assigned by the manufacturer pursuant to  
120           federal law, or a any vessel constructed or assembled before  
121           ~~prior to~~ November 1, 1972, by an entity other than a licensed  
122           manufacturer for its his or her own use or the use of a specific  
123           person. A vessel assembled from a manufacturer's kit or  
124           constructed from an unfinished manufactured hull is shall be  
125           considered to be a homemade vessel if such a vessel is not  
126           required to have a hull identification number assigned by the  
127           United States Coast Guard. A rebuilt or reconstructed vessel may  
128           not shall in no event be construed to be a homemade vessel.

129           (14) "Kite boarding" or "kite surfing" means an activity in  
130           which a kite board or surfboard is tethered to a kite so as to  
131           harness the power of the wind and propel the board across a body  
132           of water. For purposes of this subsection, the term "kite" has  
133           the same meaning as used in 14 C.F.R. part 101.

134           (15)~~(13)~~ "Houseboat" means a any vessel that which is used  
135           primarily as a residence for at least a minimum of 21 days  
136           during any 30-day period, in a county of this state if such, and  
137           ~~this~~ residential use of the vessel is to the preclusion of its  
138           ~~the use of the vessel~~ as a means of transportation.

139           (16)~~(14)~~ "Length" means the measurement from end to end  
140           over the deck parallel to the centerline, excluding sheer.

141           (17)~~(15)~~ "Lien" means a security interest that which is  
142           reserved or created by a written agreement recorded with the  
143           Department of Highway Safety and Motor Vehicles pursuant to s.  
144           328.15 and that which secures payment or performance of an  
145           obligation and is generally valid against third parties.

2014320er

146            ~~(18)~~~~(16)~~ "Lienholder" means a person holding a security  
147 interest in a vessel, which interest is recorded with the  
148 Department of Highway Safety and Motor Vehicles pursuant to s.  
149 328.15.

150            ~~(19)~~~~(17)~~ "Live-aboard vessel" means:

151            (a) A ~~Any~~ vessel used solely as a residence and not for  
152 navigation;

153            (b) A ~~Any~~ vessel represented as a place of business or a  
154 professional or other commercial enterprise; or

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

157  
158 A commercial fishing boat is expressly excluded from the term  
159 "live-aboard vessel."

160            ~~(20)~~~~(18)~~ "Livery vessel" means a ~~any~~ vessel leased, rented,  
161 or chartered to another for consideration.

162            ~~(21)~~~~(19)~~ "Manufactured vessel" means a ~~any~~ vessel built  
163 after October 31, 1972, for which a federal hull identification  
164 number is required pursuant to federal law, or a ~~any~~ vessel  
165 constructed or assembled before ~~prior to~~ November 1, 1972, by a  
166 duly licensed manufacturer.

167            ~~(22)~~~~(20)~~ "Marina" means a licensed commercial facility that  
168 ~~which~~ provides secured public moorings or dry storage for  
169 vessels on a leased basis. A commercial establishment authorized  
170 by a licensed vessel manufacturer as a dealership is ~~shall be~~  
171 considered a marina for nonjudicial sale purposes.

172            ~~(23)~~~~(21)~~ "Marine sanitation device" means ~~any~~ equipment,  
173 other than a toilet, for installation on board a vessel, ~~which~~  
174 is designed to receive, retain, treat, or discharge sewage, and

2014320er

175 any process to treat such sewage. Marine sanitation device Types  
176 I, II, and III shall be defined as provided in 33 C.F.R. part  
177 159.

178 (24)~~(22)~~ "Marker" means a ~~any~~ channel mark or other aid to  
179 navigation, an information or regulatory mark, an isolated  
180 danger mark, a safe water mark, a special mark, an inland waters  
181 obstruction mark, or mooring buoy in, on, or over the waters of  
182 the state or the shores thereof, and includes, but is not  
183 limited to, a sign, beacon, buoy, or light.

184 (25) "Moored ballooning" means the operation of a moored  
185 balloon pursuant to 14 C.F.R. part 101.

186 (26)~~(23)~~ "Motorboat" means a ~~any~~ vessel equipped with  
187 machinery for propulsion, irrespective of whether the propulsion  
188 machinery is in actual operation.

189 (27)~~(24)~~ "Muffler" means an automotive-style sound-  
190 suppression device or system designed to effectively abate the  
191 sound of exhaust gases emitted from an internal combustion  
192 engine and prevent excessive sound when installed on such an  
193 engine.

194 (28)~~(25)~~ "Navigation rules" means, for vessels on:

195 (a) ~~For vessels on~~ Waters outside ~~of~~ established  
196 navigational lines of demarcation as specified in 33 C.F.R. part  
197 80, the International Navigational Rules Act of 1977, 33 U.S.C.  
198 s. 1602, as amended, including the appendix and annexes thereto,  
199 through October 1, 2012.

200 (b) ~~For vessels on~~ All waters not outside of such  
201 established lines of demarcation, the Inland Navigational Rules  
202 Act of 1980, 33 C.F.R. parts 83-90, as amended, through October  
203 1, 2012.

2014320er

204        (29)~~(26)~~ "Nonresident" means a citizen of the United States  
205 who has not established residence in this state and has not  
206 continuously resided in this state for 1 year and in one county  
207 for the 6 months immediately preceding the initiation of a  
208 vessel titling or registration action.

209        (30)~~(27)~~ "Operate" means to be in charge of, ~~or~~ in command  
210 of, or in actual physical control of a vessel upon the waters of  
211 this state, ~~or~~ to exercise control over or to have  
212 responsibility for a vessel's navigation or safety while the  
213 vessel is underway upon the waters of this state, or to control  
214 or steer a vessel being towed by another vessel upon the waters  
215 of the state.

216        (31)~~(28)~~ "Owner" means a person, other than a lienholder,  
217 having the property in or title to a vessel. The term includes a  
218 person entitled to the use or possession of a vessel subject to  
219 an interest in another person which is~~is~~ reserved or created by  
220 agreement and securing payment of performance of an obligation.or  
221 ~~but~~ The term does not include ~~excludes~~ a lessee under a lease  
222 not intended as security.

223        (32)~~(29)~~ "Person" means an individual, partnership, firm,  
224 corporation, association, or other entity.

225        (33)~~(30)~~ "Personal watercraft" means a vessel less than 16  
226 feet in length which uses an inboard motor powering a water jet  
227 pump~~or~~ as its primary source of motive power and which is  
228 designed to be operated by a person sitting, standing, or  
229 kneeling on the vessel, rather than in the conventional manner  
230 of sitting or standing inside the vessel.

231        (34)~~(31)~~ "Portable toilet" means a device consisting of a  
232 lid, seat, containment vessel, and support structure which ~~that~~

2014320er

233 is specifically designed to receive, retain, and discharge human  
234 waste and which ~~that~~ is capable of being removed from a vessel  
235 by hand.

236 (35)~~(32)~~ "Prohibited activity" means ~~such~~ activity that ~~as~~  
237 will impede or disturb navigation or creates a safety hazard on  
238 waterways of this state.

239 (36)~~(33)~~ "Racing shell," "rowing scull," or "racing kayak"  
240 means a manually propelled vessel that ~~which~~ is recognized by  
241 national or international racing associations for use in  
242 competitive racing and in which all occupants, with the  
243 exception of a coxswain, if one is provided, row, scull, or  
244 paddle and that ~~which~~ is not designed to carry and does not  
245 carry any equipment not solely for competitive racing.

246 (37)~~(34)~~ "Recreational vessel" means a ~~any~~ vessel:

247 (a) Manufactured and used primarily for noncommercial  
248 purposes; or

249 (b) Leased, rented, or chartered to a person for his or her  
250 ~~the person's~~ noncommercial use.

251 (38)~~(35)~~ "Registration" means a state operating license on  
252 a vessel which is issued with an identifying number, an annual  
253 certificate of registration, and a decal designating the year  
254 for which a registration fee is paid.

255 (39)~~(36)~~ "Resident" means a citizen of the United States  
256 who has established residence in this state and has continuously  
257 resided in this state for 1 year and in one county for the 6  
258 months immediately preceding the initiation of a vessel titling  
259 or registration action.

260 (40)~~(37)~~ "Sailboat" means a ~~any~~ vessel whose sole source of  
261 propulsion is the wind.

2014320er

262           (41) "Sustained wind speed" means a wind speed determined  
263 by averaging the observed wind speed rounded up to the nearest  
264 mile per hour over a 2-minute period.

265           ~~(42)(38)~~ "Unclaimed vessel" means an ~~any~~ undocumented  
266 vessel, including its machinery, rigging, and accessories, which  
267 is in the physical possession of a ~~any~~ marina, garage, or repair  
268 shop for repairs, improvements, or other work with the knowledge  
269 of the vessel owner and for which the costs of such services  
270 have been unpaid for more than ~~a period in excess of~~ 90 days  
271 after ~~from~~ the date written notice of the completed work is  
272 given by the marina, garage, or repair shop to the vessel owner.

273           ~~(43)(39)~~ "Vessel" is synonymous with boat as referenced in  
274 s. 1(b), Art. VII of the State Constitution and includes every  
275 description of watercraft, barge, and airboat, other than a  
276 seaplane on the water, used or capable of being used as a means  
277 of transportation on water.

278           ~~(44)(40)~~ "Waters of this state" means any navigable waters  
279 of the United States within the territorial limits of this  
280 state, ~~and~~ the marginal sea adjacent to this state and the high  
281 seas when navigated as a part of a journey or ride to or from  
282 the shore of this state, and all the inland lakes, rivers, and  
283 canals under the jurisdiction of this state.

284           Section 3. Subsection (5) of section 327.37, Florida  
285 Statutes, is amended, and subsection (6) is added to that  
286 section, to read:

287           327.37 Water skis, parasails, ~~and~~ aquaplanes, kite  
288 boarding, kite surfing, and moored ballooning regulated.—

289           (5) A person may not operate any vessel towing a parasail  
290 or engage in parasailing or moored ballooning within 100 feet of

2014320er

291 the marked channel of the Florida Intracoastal Waterway or  
292 within 2 miles of the boundary of any airport unless otherwise  
293 permitted under federal law.

294 (6) A person may not engage in kite boarding or kite  
295 surfing within an area that extends 1 mile in a direct line  
296 along the centerline of an airport runway and that has a width  
297 measuring one-half mile unless otherwise permitted under federal  
298 law.

299 Section 4. Section 327.375, Florida Statutes, is created to  
300 read:

301 327.375 Commercial parasailing.-

302 (1) The operator of a vessel engaged in commercial  
303 parasailing shall ensure that the provisions of this section and  
304 s. 327.37 are met.

305 (2) The owner or operator of a vessel engaged in commercial  
306 parasailing may not offer or provide for consideration any  
307 parasailing activity unless the owner or operator first obtains  
308 and maintains in full force and effect a liability insurance  
309 policy from an insurance carrier licensed in this state or  
310 approved by the Office of Insurance Regulation or an eligible  
311 surplus lines insurer. Such policy must provide bodily injury  
312 liability coverage in the amounts of at least \$1 million per  
313 occurrence and \$2 million annual aggregate. Proof of insurance  
314 must be available for inspection at the location where  
315 commercial parasailing is offered or provided for consideration,  
316 and each customer who requests such proof shall be provided with  
317 the insurance carrier's name and address and the insurance  
318 policy number.

319 (3) The operator of a vessel engaged in commercial

2014320er

320 parasailing must have a current and valid license issued by the  
321 United States Coast Guard authorizing the operator to carry  
322 passengers for hire. The license must be appropriate for the  
323 number of passengers carried and the displacement of the vessel.  
324 The license must be carried on the vessel and be available for  
325 inspection while engaging in commercial parasailing activities.

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

330 (5) (a) Commercial parasailing is prohibited if the current  
331 observed wind conditions in the area of operation include a  
332 sustained wind speed of more than 20 miles per hour; if wind  
333 gusts are 15 miles per hour higher than the sustained wind  
334 speed; if the wind speed during gusts exceeds 25 miles per hour;  
335 if rain or heavy fog results in reduced visibility of less than  
336 0.5 mile; or if a known lightning storm comes within 7 miles of  
337 the parasailing area.

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

344 (6) A person or operator who violates this section commits  
345 a misdemeanor of the second degree, punishable as provided in s.  
346 775.082 or s. 775.083.

347 Section 5. Paragraph (d) of subsection (5) of section  
348 320.08, Florida Statutes, is amended to read:

2014320er

349           320.08 License taxes.—Except as otherwise provided herein,  
350 there are hereby levied and imposed annual license taxes for the  
351 operation of motor vehicles, mopeds, motorized bicycles as  
352 defined in s. 316.003(2), tri-vehicles as defined in s. 316.003,  
353 and mobile homes, as defined in s. 320.01, which shall be paid  
354 to and collected by the department or its agent upon the  
355 registration or renewal of registration of the following:

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

358           (d) A wrecker, as defined in s. 320.01, which is used to  
359 tow a vessel as defined in s. 327.02~~(39)~~, a disabled, abandoned,  
360 stolen-recovered, or impounded motor vehicle as defined in s.  
361 320.01, or a replacement motor vehicle as defined in s. 320.01:  
362 \$41 flat, of which \$11 shall be deposited into the General  
363 Revenue Fund.

364           Section 6. Subsection (1) of section 327.391, Florida  
365 Statutes, is amended to read:

366           327.391 Airboats regulated.—

367           (1) The exhaust of every internal combustion engine used on  
368 any airboat operated on the waters of this state shall be  
369 provided with an automotive-style factory muffler, underwater  
370 exhaust, or other manufactured device capable of adequately  
371 muffling the sound of the exhaust of the engine as described in  
372 s. 327.02(25) ~~s. 327.02(24)~~. The use of cutouts or flex pipe as  
373 the sole source of muffling is prohibited, except as provided in  
374 subsection (4). Any person who violates this subsection commits  
375 a noncriminal infraction punishable as provided in s. 327.73(1).

376           Section 7. Subsection (4) of section 328.17, Florida  
377 Statutes, is amended to read:

2014320er

378 328.17 Nonjudicial sale of vessels.—

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

380 (a) A possessory lien upon any vessel for storage fees,  
381 dockage fees, repairs, improvements, or other work-related  
382 storage charges, and for expenses necessary for preservation of  
383 the vessel or expenses reasonably incurred in the sale or other  
384 disposition of the vessel. The possessory lien attaches ~~shall~~  
385 ~~attach~~ as of the date the vessel is brought to the marina or as  
386 of the date the vessel first occupies rental space at the marina  
387 facility.

388 (b) A possessory lien upon any vessel in a wrecked, junked,  
389 or substantially dismantled condition~~7~~ which has been left  
390 abandoned at a marina~~7~~ for expenses reasonably incurred in the  
391 removal and disposal of the vessel. The possessory lien attaches  
392 ~~shall attach~~ as of the date the vessel arrives at the marina or  
393 as of the date the vessel first occupies rental space at the  
394 marina facility. If the funds recovered from the sale of ~~the~~  
395 ~~vessel~~~~7~~ or ~~from~~ the scrap or salvage value of the vessel~~7~~ are  
396 insufficient to cover the expenses reasonably incurred by the  
397 marina in removing and disposing of the vessel, all costs in  
398 excess of recovery shall be recoverable against the owner of the  
399 vessel. For a vessel damaged as a result of a named storm, the  
400 provisions of this paragraph shall be suspended for 60 days  
401 after ~~following~~ the date the vessel is damaged in the named  
402 storm. The operation of the provisions specified in this  
403 paragraph run concurrently with, and do not extend, the 60-day  
404 notice periods provided in subsections (5) and (7).

405 Section 8. Subsection (2) of section 342.07, Florida  
406 Statutes, is amended to read:

2014320er

407 342.07 Recreational and commercial working waterfronts;  
408 legislative findings; definitions.—

409 (2) As used in this section, the term "recreational and  
410 commercial working waterfront" means a parcel or parcels of real  
411 property which ~~that~~ provide access for water-dependent  
412 commercial activities, including hotels and motels as defined in  
413 s. 509.242(1), or provide access for the public to the navigable  
414 waters of the state. Recreational and commercial working  
415 waterfronts require direct access to or a location on, over, or  
416 adjacent to a navigable body of water. The term includes water-  
417 dependent facilities that are open to the public and offer  
418 public access by vessels to the waters of the state or that are  
419 support facilities for recreational, commercial, research, or  
420 governmental vessels. These facilities include public lodging  
421 establishments, docks, wharfs, lifts, wet and dry marinas, boat  
422 ramps, boat hauling and repair facilities, commercial fishing  
423 facilities, boat construction facilities, and other support  
424 structures over the water. As used in this section, the term  
425 "vessel" has the same meaning as in s. 327.02~~(39)~~. Seaports are  
426 excluded from the definition.

427 Section 9. Paragraph (b) of subsection (1) of section  
428 713.78, Florida Statutes, is amended to read:

429 713.78 Liens for recovering, towing, or storing vehicles  
430 and vessels.—

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

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

2014320er

436 Section 10. Paragraph (b) of subsection (1) of section  
437 715.07, Florida Statutes, is amended to read:

438 715.07 Vehicles or vessels parked on private property;  
439 towing.—

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

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

445 Section 11. This act shall take effect October 1, 2014.