

By Senators Sachs, Margolis, and Sobel

34-00477-14

2014320__

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

34-00477-14

2014320__

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

34-00477-14

2014320__

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

34-00477-14

2014320__

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 ~~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

34-00477-14

2014320__

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

34-00477-14

2014320__

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

34-00477-14

2014320__

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

34-00477-14

2014320__

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~~is~~ reserved or created by
210 agreement and securing payment of performance of an obligation.~~.~~
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

34-00477-14

2014320__

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

34-00477-14

2014320__

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,

34-00477-14

2014320__

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

34-00477-14

2014320__

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

34-00477-14

2014320__

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~~7~~ which has been left
365 abandoned at a marina~~7~~ 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~~~~7~~ or ~~from~~ the scrap or salvage value of the vessel~~7~~ 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

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:

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.