By Senator Jones

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A bill to be entitled

An act relating to commercial parasailing; amending s. 327.02, F.S.; providing definitions; creating s. 327.375, F.S.; providing a short title; requiring the owner of a vessel engaged in commercial parasailing to obtain and carry an insurance policy; providing minimum coverage for the insurance policy; providing requirements for proof of insurance; specifying the insurance information that must be provided to each rider; providing for the launch and recovery of riders from a towing vessel; requiring a person engaged in operating a vessel for commercial parasailing to have certain licenses; requiring certain equipment; prohibiting commercial parasailing in certain areas, under certain weather conditions, and during certain hours; requiring a safety briefing for passengers and parasail riders; providing penalties; amending ss. 320.08, 327.391, 328.17, 342.07, 713.78, and 715.07, F.S.; conforming cross-references to changes made by the act; providing an effective date.

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

Section 1. Section 327.02, Florida Statutes, is amended to read:

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

(1) “Airboat” means a vessel that is primarily designed for

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

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

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

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

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

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

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

(c) The person or persons remain suspended above the water while the vessel is underway.

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

(a) Any vessel primarily engaged in the taking or landing of saltwater fish or saltwater products or freshwater fish or freshwater products, or any vessel licensed pursuant to s.

379.361 from which commercial quantities of saltwater products are harvested, from within and without the waters of this state for sale either to the consumer, retail dealer, or wholesale dealer.

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

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

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

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

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

(11) ~~(10)~~ "Floating structure" means a floating entity, with or without accommodations built thereon, which is not primarily used as a means of transportation on water but which serves purposes or provides services typically associated with a structure or other improvement to real property. The term "floating structure" includes, but is not limited to, each entity used as a residence, place of business or office with public access, hotel or motel, restaurant or lounge, clubhouse, meeting facility, storage or parking facility, mining platform,

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dredge, dragline, or similar facility or entity represented as such. Floating structures are expressly excluded from the definition of the term "vessel" provided in this section. Incidental movement upon water or resting partially or entirely on the bottom shall not, in and of itself, preclude an entity from classification as a floating structure.

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

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

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to be a homemade vessel.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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engine.

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

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

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

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

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

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

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

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

(34) "Quick release" means a device that enables the tethered or connected person to quickly release or remove himself or herself from his or her support system.

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

(36)~~(34)~~ "Recreational vessel" means any vessel:

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

(b) Leased, rented, or chartered to a person for the person's noncommercial use.

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

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

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

(40) "Support system" means a device used to tether, connect, or otherwise suspend a person under the canopy.

(41) "Sustained wind speed" means a wind speed determined by averaging the observed wind speed rounded to the nearest whole knot over a 2-minute period.

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

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

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

Section 2. Section 327.375, Florida Statutes, is created to read:

327.375 Commercial parasailing.—

(1) This section may be cited as the "Alejandra White Act."

(2) The owner of a vessel engaged in commercial parasailing may not offer or provide for consideration any parasailing activity unless the owner first obtains and carries in full force and effect an insurance policy, from an insurance carrier licensed in this state, insuring against any accident, loss, injury, property damage, death, or other casualty caused by or resulting from any commercial parasailing activity. The insurance policy must provide coverage of at least $1 million per person, per event. Proof of insurance must be available for inspection at the location where commercial parasailing is offered or provided for consideration and each customer who requests it shall be provided with the insurance carrier's name and address and the insurance policy number.

(3) A person engaged in commercial parasailing must meet the following requirements:

(a) Commercial parasail operators shall launch riders only from and recover riders only to the vessel.

(b) A person may not operate a vessel engaged in commercial parasailing on the waters of this state unless the person has a

current and valid license issued by the United States Coast Guard authorizing that person to engage in carrying passengers for hire. The license must be appropriate for the number of passengers carried and the displacement of the vessel. The license must be carried on the vessel and be available for inspection while commercial parasailing activities are conducted.

(c) A person may not operate a vessel for commercial parasailing unless an observer 18 years of age or older is present in the vessel at all times to monitor the progress of any tethered parasail rider and parasail equipment. The observer may not be a customer, must be attentive to the parasail rider or riders and equipment, and may not have any other duties while the rider or riders are in the water or suspended above the water.

(d) A person may not operate any vessel engaged in commercial parasailing unless:

1. All riders wear an appropriate floatation device approved by the United States Coast Guard, other than an inflatable device, which is in serviceable condition and of the proper size;

2. All riders are equipped with a support system that includes a harness that has a quick release or is a "gondola style" system that allows the rider to quickly self evacuate during an emergency.

3. The vessel is in full compliance with all requirements of the United States Coast Guard governing crewing and equipment carriage for passenger-carrying vessels as specified in the Code of Federal Regulations or as otherwise specified by the United

States Coast Guard in the vessel's certificate of inspection; and

4. The vessel is equipped with a functional VHF marine transceiver that can monitor National Weather Service forecasts and send and receive and monitor channel 16.

(e) No more than two persons may be tethered to the towing vessel and ascend above the water at any time.

(f) A person may not operate a vessel towing a commercial parasailing rider on any waters of the state less than 1,800 feet from the shore. This restriction applies to the entire commercial parasailing apparatus, including the vessel, towline, and rider.

(g) A person may not operate a vessel towing a commercial parasailing rider so that the vessel, towline, or rider comes within 400 feet of:

1. An anchored vessel;

2. A person in the water; or

3. A structure, bridge, power line, wharf, pier, dock, platform, piling, marker, or other similar object.

(h) 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.

(i) Commercial parasailing is prohibited when the current conditions or those forecasted by the National Weather Service include a sustained wind speed of 20 knots or higher in the area of operation, rain or heavy fog that results in reduced visibility of less than 0.5 miles, or a known lightning storm within 7 miles of the parasailing area.

(j) The vessel captain shall use all available means to

determine prevailing and forecasted weather conditions and record this information in a weather log each time passengers are to be taken out on the water. The weather log must be available for inspection at all times at the place of business.

(k) Towlines used for commercial parasailing must be rated for a tensile strength that exceeds 4,800 pounds, must be double braided, low-stretch type, and may not exceed 800 feet in length.

(l) Each passenger and parasail rider must be given a safety briefing before embarking or before the parasail activity commences. This briefing must include a description of the equipment, the parasail activity, inherent risks, and instruction on how to safely evacuate from the passenger support during a water landing.

(m) A person operating a vessel for commercial parasailing may not engage in parasailing, or any similar activity at any time between the hours of one-half hour after sunset to one-half hour before sunrise.

(4) 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.

Section 3. Paragraph (d) of subsection (5) of section 320.08, Florida Statutes, is amended to read:

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

registration or renewal of registration of the following:

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

(d) A wrecker, as defined in s. 320.01(40), which is used to tow a vessel as defined in s. 327.02(43) ~~s. 327.02(39)~~, a disabled, abandoned, stolen-recovered, or impounded motor vehicle as defined in s. 320.01(38), or a replacement motor vehicle as defined in s. 320.01(39): $41 flat, of which $11 shall be deposited into the General Revenue Fund.

Section 4. Subsection (1) of section 327.391, Florida Statutes, is amended to read:

327.391 Airboats regulated.—

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

Section 5. Subsection (4) of section 328.17, Florida Statutes, is amended to read:

328.17 Nonjudicial sale of vessels.—

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

(a) A possessory lien upon any vessel for storage fees, dockage fees, repairs, improvements, or other work-related storage charges, and for expenses necessary for preservation of

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the vessel or expenses reasonably incurred in the sale or other disposition of the vessel. The possessory lien shall attach as of the date the vessel is brought to the marina or as of the date the vessel first occupies rental space at the marina facility.

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

Section 6. Subsection (2) of section 342.07, Florida Statutes, is amended to read:

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

(2) As used in this section, the term "recreational and commercial working waterfront" means a parcel or parcels of real property <u>which</u> ~~that~~ provide access for water-dependent

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commercial activities, including hotels and motels as defined in s. 509.242(1), or provide access for the public to the navigable waters of the state. Recreational and commercial working waterfronts require direct access to or a location on, over, or adjacent to a navigable body of water. The term includes water-dependent facilities that are open to the public and offer public access by vessels to the waters of the state or that are support facilities for recreational, commercial, research, or governmental vessels. These facilities include public lodging establishments, docks, wharfs, lifts, wet and dry marinas, boat ramps, boat hauling and repair facilities, commercial fishing facilities, boat construction facilities, and other support structures over the water. As used in this section, the term "vessel" has the same meaning as in s. 327.02(43) ~~s. 327.02(39)~~. Seaports are excluded from the definition.

Section 7. Paragraph (b) of subsection (1) of section 713.78, Florida Statutes, is amended to read:

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

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

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

Section 8. Paragraph (b) of subsection (1) of section 715.07, Florida Statutes, is amended to read:

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

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

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

Section 9. This act shall take effect July 1, 2011.

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