

II. Present Situation:

Parasailing accidents are infrequent but have the potential for severe consequences. In July 2001, a parasailing accident resulted in two fatalities. In 2003, a parasailing accident resulted in two persons sustaining minor injuries. The most recent reported parasailing accident occurred in August 2007, which resulted in one injury and one fatality¹.

Presently, no state or federal laws specifically regulate commercial parasailing activities. The FWC estimates that there are at least 70 commercial parasail operators in the state. Most parasail businesses operate along the Atlantic and Gulf of Mexico coastlines. A notable exception is Walt Disney World that offers parasailing at its Sammy Duvall Watersports Center on Bay Lake.

The US Coast Guard (USCG) regulates parasail vessels as commercial passenger vessels when operated on coastal (navigable) waters². The USCG initiates vessel inspections based upon vessel type, number of passengers, and operator licensing. The USCG has also initiated a voluntary commercial parasailing vessel safety program in which it provides operators with a vessel safety inspection booklet to record the voluntary examinations. These booklets also provide a summary list of recommended parasailing industry safety standards for examiners, owners, and operators of commercial parasailing vessels³.

III. Effect of Proposed Changes:

Section 1: The CS amends s. 327.02, F.S., adding the following definitions:

- “Commercial parasailing” means providing or offering to provide, for consideration, any activity involving the towing of a person by a motorboat when:
 - One or more persons are tethered to the towing vessel;
 - The person or persons ascend above the water; and
 - The person or persons remain suspended above the water while the vessel is underway.
- “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.

Section 2: The CS creates the “Amber May White Act” and establishes an annual licensing requirement of \$50 for any vessel engaged in commercial parasailing activities. The fees collected shall be deposited into the Marine Resources Conservation Trust Fund and used specifically to recover the costs associated with regulating commercial parasailing.

The CS requires that owners of vessels engaged in commercial parasailing activities carry liability insurance at a minimum of \$750,000 per person and \$1.5 million per event, from an insurance carrier licensed to provide insurance in the state, against an accident, loss, injury, property damage, or any other casualty caused by or resulting from the commercial parasailing activity. The CS requires that the insurance information must be posted in plain view on the vessel and available for inspection whenever commercial parasailing activities are underway.

¹ Accident reports provided by the Fish and Wildlife Conservation Commission.

² USCG Licensing Requirements for Maritime Personnel, Title 46, Part 10, United States Code.

³ USCG Passenger Vessel Safety Program information provided at www.uscg.mil

Additionally, the CS requires that:

- A person engaged in commercial parasailing activities may not use any vessel unless it is equipped for towing a person while parasailing and is equipped with a launch platform and powered winch to release and retrieve the towline.
- A person engaged in commercial parasailing activities on state waters must have a current and valid license issued by the United States Coast Guard authorizing that person to carry passengers for hire. Such licenses must be carried on the vessel and available for inspection while commercial parasailing activities are conducted.
- A person may not operate a vessel for commercial parasailing unless an observer, 18 years of age or older, is present, at all times, to monitor the progress of any airborne parasail rider and parachute. Such observers may not have any other duties while the parasail riders are airborne or in the water.
- All parasail riders must wear a United States Coast Guard approved personal flotation device, in serviceable condition, and of the proper size.
- All parasail riders must be connected to the towline and secured in a seat harness which is attached to an ascending parachute prior to vessel operation.
- A person engaged in commercial parasailing activities must ensure that the vessel is in full compliance with all United States Coast Guard rules and regulations regarding passenger-carrying vessels.
- A person engaged in commercial parasailing activities must ensure the vessel is equipped with a functional VHF marine transceiver.

Finally, the CS provides the following:

- Parasailing activities in the Atlantic Ocean and Gulf of Mexico are prohibited in waters less than 3,000 feet from the shoreline. The prohibition applies to the entire parasailing apparatus, including the vessel, towline, and rider;
- A person may not operate a vessel engaged in commercial parasailing activities within 600 feet of;
 - An anchored vessel;
 - A person in the water; or
 - A structure, bridge, power line, wharf, pier, dock, buoy, platform, piling, channel marker, or other similar object.
- Commercial parasailing is prohibited;
 - On bodies of water less than 2,000 feet wide;
 - From sunset to sunrise and any time during restricted visibility⁴; and
 - When there are sustained winds of 18 knots or greater in the operation area.
- Towlines used for commercial parasailing activities may not exceed 600 feet in length.
- Parasail riders may only be launched from and recovered to the vessel's launch platform.
- Each parasail participant must be given a safety briefing that includes a basic description of the activity and emergency procedures prior to leaving the dock.
- Persons operating commercial parasailing vessels must possess a current, valid American Red Cross or American Heart Association cardiopulmonary resuscitation course card and

⁴ Restricted visibility is defined under the International Navigation Rules Act of 1977 and referenced in the CS to "navigation rules" as defined in s. 327.02 (25), F.S.

a current, valid American Red Cross or National Safety Council standard first aid course card.

- Commercial parasailing operators or “providers” may not condition participation in commercial parasailing activities upon execution of an exculpatory agreement that attempts to release the provider from liability.
- Any person that violates the provisions of the bill commits a second degree misdemeanor punishable as provided in s. 775.082, F.S. and s. 775.082, F.S.

Section 2: The bill provides an effective date of October 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not require cities and counties to expend funds or limit their authority to raise revenues or receive state-shared revenues as specified by s. 18, Art. VII, State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The FWC estimates there are approximately 70 commercial parasailing operators in the state. Each vessel engaged in parasailing activities will require a \$50 annual license for operation. It is unknown how many vessels each operator employs and therefore unknown how much revenue license fees will generate; however at a minimum, the revenue generated could be \$3,500 (70 operators times one vessel).

B. Private Sector Impact:

Commercial parasailing operators in Florida will incur an annual license fee of \$50 plus additional insurance and operating costs associated with the compliance standards in the bill. It is unknown what the additional insurance and operational costs will be as they will vary depending on each operator’s current insurance coverage amounts, claims history, and operational readiness of each vessel.

C. Government Sector Impact:

The FWC anticipates that the \$50 annual license fee will be sufficient to cover the costs associated with regulating the program. Additional enforcement responsibilities

associated with the new provisions will be absorbed as part of the commissions' ongoing boating law enforcement responsibilities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

The CS defines the terms “commercial parasailing” and “sustained wind speed” in s. 327.02, F.S.

The CS entitles the section on commercial parasailing as the “Amber May White Act”.

The CS clarifies the appropriate personal flotation device approved for use during commercial parasailing operations.

The CS increases the distance from the shore commercial parasailing activities can occur in the Atlantic Ocean and Gulf of Mexico from 2,000 to 3,000 feet.

The CS decreases the time commercial parasailing activities can occur from one-half hour after sunset to one-half hour before sunrise to between sunset and sunrise.

The CS references the definition of restricted visibility.

The CS decreases the sustained wind speed for which commercial parasailing activities are prohibited from 20 knots or higher to 18 knots or higher.

The CS provides for additional safety briefing requirements for participants as well as providing requirements that operators possess a valid cardiopulmonary resuscitation and first aid course card.

Finally, the CS states that a commercial parasailing operator or “provider” may not condition participation in commercial parasailing activities upon the execution of exculpatory agreements that attempt to release the provider from liability.

B. Amendments:

None.