

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 Environmental Preservation and Conservation Committee

BILL: CS/CS/SB 0406

INTRODUCER: Banking and Insurance Committee, Environmental Preservation and Conservation Committee and Senator Margolis

SUBJECT: Commercial Parasailing

DATE: April 1, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bascom	Kiger	EP	Fav/CS
2.	Mays	Deffenbaugh	BI	Fav/CS
3.			GA	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

The committee substitute (CS) amends s. 327.02, F.S., providing a new definition for “commercial parasailing” and “sustained wind speed”.

The CS creates s. 327.375, F.S., entitled “The Amber May White Act” to provide regulations for commercial parasailing activities in Florida. The CS requires the owner of vessels, engaged in commercial parasailing activities, to carry liability insurance and specifies the amount of such insurance. The CS provides specific requirements for persons conducting commercial parasailing activities and a criminal penalty for violations of the commercial parasailing provisions.

The CS amends s. 327.50, F.S. to repeal the current requirement for those 6 years of age or less to wear a personal flotation device. This results in defaulting to the federal requirement of 13 years of age or less.

The CS amends ss. 327.02 and 327.50, Florida Statutes, and creates s. 327.375, Florida Statutes.

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 fatality.¹

Presently, no state or federal laws specifically regulate commercial parasailing activities. The FWC estimates that there are between 70 and 120 commercial parasail operators in the state. Most parasail businesses operate along the Atlantic and Gulf of Mexico coastlines. A notable exception is the Sammy Duvall Watersports Center that offers parasailing on Bay Lake at Walt Disney World.

The U.S. Coast Guard (USCG) regulates parasailing vessels as commercial passenger vessels when operated on coastal (navigable) waters.² 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 vessels.³

The majority of resorts or municipalities require insurance coverage as a condition to operate commercial parasailing. Insurance for commercial parasailing can be difficult to obtain and very expensive. Staff was able to locate three surplus lines carriers willing to write policies in the State of Florida. The most prevalent insurer is First Flight Insurance Group, based out of Kitty Hawk, N.C. The lowest premium quoted for the bare minimum coverage was \$7,500 per boat. The average premium ranges from \$11,000 to \$13,000 per boat for coverage of \$1 million dollars for a single event.

Proponents of the bill including those from the parasailing industry and the surplus lines carriers are advocating the strengthening of state regulations. This is a joint attempt to increase safety and ensure legitimate insurance coverage remains available and affordable in the state. The majority of commercial parasailing operators claim alternative insurance is available at cheaper rates from unregulated, international companies. However, those from the parasailing industry claim often times working with these companies will result in illegitimate business practices including failure to pay claims and neglecting to require risk management policies for the insured operators. Surplus lines carriers must be approved before doing business in Florida.

The Professional Association of Parasail Operators (PAPO) is an organization with the mission to ensure public safety in parasailing through safe practice and regulation. In order to be covered by First Flight Insurance Group, a commercial parasailing operator must be a member of PAPO and comply with their regulations. A representative from PAPO stated that the commercial parasailing industry in Florida generates between \$50 and \$55 million dollars annually. Florida accounts for approximately half of the total commercial parasailing operations nationwide.

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

A requirement of commercial parasailing operators to be generally eligible for insurance coverage is to require every participant to sign a waiver of liability or exculpatory agreement, approved by the insurance company. Currently, all commercial parasailing businesses contacted by staff required a waiver of liability or exculpatory agreement as a requirement of their insurance carriers.

Current Florida law requires no person to operate a vessel less than 26 feet in length on the waters of this state unless every person under six years of age on board the vessel is wearing a type I, type II, or type III Coast Guard approved personal flotation device while such vessel is underway.⁴ Any state in the nation that does not specify the age required to wear a flotation device when a vessel is underway will default to the Federal requirement of 13 years of age or less.⁵

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.”

The CS requires that owners of vessels engaged in commercial parasailing activities carry liability insurance at a minimum of \$500,000 per person and \$1 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.

Additionally, the CS requires that:

- Parasail riders may only be launched from and recovered to the vessel’s launch platform.
- A person engaged in commercial parasailing activities on state waters must have a current and valid license issued by the USCG 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.

⁴ s. 327.50 F.S.

⁵ Section 175.15 of Title 33, Code of Federal Regulations

- All parasail riders must wear a USCG approved personal flotation device, in serviceable condition, and of the proper size.
- A person engaged in commercial parasailing activities must ensure that the vessel is in full compliance with all USCG 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.
- No more than two persons may be tethered and ascend above the water at any time.
- Parasailing activities in the Atlantic Ocean and Gulf of Mexico are prohibited in waters less than 2,500 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 400 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 when there are sustained winds of 18 knots or greater in the operation area.
- Towlines used for commercial parasailing activities may not exceed 400 feet in length.
- Commercial parasailing is prohibited from one-half hour after sunset to one-half before sunrise.
- 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.
- 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. 775.083, F.S.

Section 3. The CS amends s. 627.50, F.S., to strike the prohibition for any person to operate a vessel less than 26 feet in length on the waters of this state unless every person under six years of age on board the vessel is wearing a type I, type II, or type III Coast Guard approved personal flotation device while such vessel is underway. This will result in defaulting to the federal requirement of 13 years of age or less.

Section 4. 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:

None.

B. Private Sector Impact:

Commercial parasailing operators in Florida will incur an 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:

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.)

CS by Banking and Insurance Committee on April 1, 2008

The CS deletes the \$50 annual license requirement for vessels engaged in commercial parasailing.

The CS lowers the required level of insurance liability coverage from \$1 million per person to \$500,000. The CS lowers the liability coverage per event from \$1.5 million to \$1 million.

The CS restricts commercial parasailing operators to only flying two people or less at a time.

The CS lessens the distance restriction from 3,000 feet from shore to 2,500 in any waters of the state where commercial parasailing is permitted.

The CS lessens the distance restriction from buoys, docks, and other various items in the water from 600 feet to 400 feet.

The CS lengthens the permitted towing rope length from 600 to 700 feet.

The CS deletes the requirement of commercial parasailing operators to carry a valid cardiopulmonary resuscitation and first aid course card.

The CS deletes the restriction on commercial parasailing operators to condition participation in commercial parasailing activities upon the execution of exculpatory agreements that attempt to release the provider from liability.

The CS repeals the current requirement for those 6 years of age or less to wear a personal flotation device (which defaults to the federal requirement of 13 years of age or less).

CS by Environmental Preservation and Conservation Committee on March 7, 2008

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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
