

COMMITTEE ON CONSERVATION & STATE LANDS

**WEDNESDAY, MARCH 19, 2008
3:00 PM – 6:00 PM
216 THE CAPITOL**

REVISED1

**Marco Rubio
Speaker**

**Rep. Will Kendrick
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Marco Rubio

Committee on Conservation & State Lands

Start Date and Time: Wednesday, March 19, 2008 03:00 pm

End Date and Time: Wednesday, March 19, 2008 06:00 pm

Location: 216 Capitol

Duration: 3.00 hrs

Consideration of the following bill(s):

HB 703 Vessel Safety by Kiar

HB 919 Commercial Parasailing by Domino

HB 1215 Fort Zachary Taylor Historic State Park by Saunders

Workshop on the following:

Policy issues with respect to recommendations for Proposed Council Bill ENRC 08-09 Florida Forever Successor.

Presentation by the Division of Bond Finance.

NOTICE FINALIZED on 03/17/2008 16:16 by SIMS-DAVIS.LINDA

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

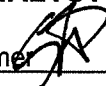

BILL #: HB 703

Vessel Safety

SPONSOR(S): Kiar

TIED BILLS:

IDEN./SIM. BILLS: SB 1192

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Conservation & State Lands</u>	_____	Palmer 	Zeiler 
2) <u>Environment & Natural Resources Council</u>	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill increases the lawful minimum age for any person operating a personal watercraft on the waters the state from fourteen years to sixteen years. The bill requires any person operating a personal watercraft to have a boating safety identification card indicating that they have successfully completed a FWC approved boating safety course in compliance with statutory requirements.

The bill makes it unlawful for the owner of, or any person having charge or control over any leased, hired, or rented personal watercraft to authorize or knowingly permit the watercraft to be operated by anyone who has not received instruction in the safe handling of personal watercraft in compliance with s. 327.54, F.S, and the rules of the FWC. It also requires anyone who has received instruction in the safe operation of personal watercraft pursuant to statutory requirements as well as any program established by the rules of the FWC, to present the owner or person having charge or control over a personal watercraft with a written statement attesting to that fact.

The bill requires anyone who leases, hires, or rents a vessel to any person and who provides the information required by this section to enroll in, attend, and successfully complete, at his or her own expense, a boating safety course that meets the minimum standards established by the FWC's rules.

The bill prohibits any livery from knowingly leasing, hiring, or renting a personal watercraft to any person who has not received instruction in safe handling of personal watercraft pursuant to the FWC's rules.

The bill does not appear to have a significant fiscal impact on state or local governments. There may be an indeterminate fiscal impact on the private sector due to loss of personal watercraft sales.

The bill would become effective on July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard Individual Liberties: This bill raises the minimum lawful age to operate a personal watercraft from fourteen to sixteen, requires any person operating a personal water craft to have completed an FWC approved boating safety course, and places additional requirements on individuals operating, leasing, hiring or renting such crafts.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

According to the Fish and Wildlife Conservation Commission (FWC), for the five-year time period from 2003 through 2007, a total of thirty-four operators of personal watercraft, age fourteen to less than sixteen years, were involved in reportable boating accidents. Ten of these incidences involved rented personal watercraft.¹

Section 327.02(39), F.S., defines boat as synonymous with vessel and includes every description of watercraft, barge, and airboat, other than a seaplane on water, used or capable of being used as a means of transportation on water. Personal watercraft is defined in s. 327.02(30), F.S., as a particular type of vessel that is less than sixteen 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.

Personal watercrafts have engines that produce 100 hp or more and can exceed speeds of 60 mph. The defining characteristic of personal watercraft is the engine that drives them. Most water craft are powered by either a propeller or sail but personal watercraft are powered by a water jet – a design characteristic that accounts for many of the dangers associated with personal watercraft use. The water jet works by taking in water through intake valves, accelerating the water, and expelling it through an output valve at the rear of the craft. Personal watercraft do not have a rudder and are both powered and maneuvered by the water jet. Directional control of a personal watercraft is achieved when the moveable output nozzle is turned so that the thrust of the water controls the direction of the craft. Consequently, if power is lost (or reduced) the operator of a personal watercraft loses the ability to steer the vessel. Also, personal watercraft do not have a mechanical braking mechanism such as shifting a propeller driven vessel into reverse. If an operator wishes to stop a personal watercraft they must either execute a sharp turning maneuver or allow the craft to glide to a stop.²

Section 327.395, F.S., specifies that any person twenty-one years of age or younger may not operate any vessel powered by a motor of ten horsepower or greater unless they have completed a boating safety course approved by the Fish and Wildlife Conservation Commission (FWC) or passed a course equivalency examination approved by the FWC. While operating any vessel of ten horsepower or greater, a person twenty-one years of age or younger must have with them both the boater safety identification card issued for successfully completing the boating safety course and photographic identification. A violation of these requirements is a non-criminal infraction and is punishable by a fine of \$50.

However, s. 327.395(6), F.S., exempts operators twenty-one years of age or younger from the boating education requirement if they are:

¹ FWC, 2008. Legislative Bill Analysis - House Bill 703.

² SafetyForum, 2008. <http://www.safetyforum.com/pwc/>

- licensed by the United States Coast Guard (USCG) to serve as master on a vessel;
- operating a vessel on a private lake or pond;
- accompanied by a person who is attendant to the operation of the vessel and is exempt from this requirement;
- accompanied by a person who is attendant to the operation of the vessel, is eighteen years of age or older, and who holds a valid boating safety identification card; or
- a non-resident that has proof of successful completion of a boating safety course that meets or exceeds the requirements of the FWC.

The FWC's rule 68D-36.104, F.A.C., specifies that boating safety courses offered by the FWC pursuant to s. 327.395, F.S., must maintain current approval by the National Association of State Boating Law Administrators (NASBLA). The NASBLA³ is a professional association representing the recreational boating authorities of all 50 states and the U.S. territories. The NASBLA's objectives are to foster partnerships among and between the states, the USCG and others, to craft model boating laws, to maintain national education and training standards, and to advocate the needs of the state boating programs before the U.S. Congress and federal agencies.

According to the FWC, their participation with the NASBLA is aimed at maintaining national consistency and reciprocity agreements with regard to boating education and the FWC uses NASBLA rules as a guideline for developing rules. The Executive Director can adopt NASBLA rules by reference but the FWC is the final decider regarding approval of boating course content.

Florida law currently allows individuals fourteen years of age or greater to operate a personal watercraft on waters of the state provided they meet the boating safety education requirements specified in s. 327.395, F.S. Section 327.39, F.S., makes it a misdemeanor of the second degree, punishable as provided in ss. 775.082 or 775.083, F.S., for any person having charge or control over a personal watercraft to knowingly let a person younger than fourteen years operate that personal watercraft.

Section 327.39, F.S., also requires that:

- a person operating or being towed behind a personal watercraft shall wear a type I, II, III, or V personal floatation device;
- if a personal watercraft is equipped with a lanyard type cutoff switch, any person operating the personal watercraft must attach the lanyard to his or her person;
- a person operating a personal watercraft may only do so between the hours of one-half hour before sunrise to one-half hour after sunset; and
- a person operating a personal watercraft must do so in a safe and prudent manner at all times.

A violation of these requirements is a non-criminal infraction and is punishable by a fine of \$50.

Section 327.54, F.S., contains the provisions for regulation of livery vessels where a livery vessel is defined by s. 327.02(18), F.S., to mean any vessel leased, rented, or chartered to another for consideration. The statute requires that a livery may not knowingly lease, hire, or rent a vessel to any person whenever:

- the number of persons intending to use the vessel exceeds the number considered to constitute a maximum safety load for the vessel;
- the horsepower of the motor exceeds the capacity of the vessel;
- the vessel does not contain the required safety equipment;
- the vessel is not seaworthy;
- the vessel is equipped with a motor of ten horsepower or greater, unless the livery provides pre-rental or pre-ride instruction that includes, but need not be limited to, the operational characteristics of the vessel to be rented, safe vessel operation and vessel right-of-way rules,

³ NASBLA, 2008. <http://www.nasbla.org/>.

the responsibility of the vessel operator for the safe and proper operation of the vessel, and the local characteristics of the waterway where the vessel will be operated.

Any person delivering this information on behalf of the livery must have successfully completed a boater safety course approved by the National Association of State Boating Law Administrators and the state. The FWC is the state's primary agent for this course approval; however, the FWC may appoint liveries, marinas or other persons to administer the boating safety course.

As required by s. 327.54, F.S., a livery may not knowingly lease, hire, or rent a personal watercraft to any person who has not received instruction in safe handling of personal watercraft pursuant to the FWC's rules. The person obtaining a personal watercraft from a livery must provide the livery with a written statement attesting to their compliance with FWC's rules. Section 327.54(4)(a), F.S., provides that a livery may not lease, hire, or rent a personal watercraft to any person who is less than eighteen years of age.

Any violation of the requirements on liveries is a misdemeanor of the second degree and is punishable as provided in ss. 775.082 or 775.083, F.S.

Additional requirements, for liveries renting or leasing personal watercraft, are established by rule 68D-36, F.A.C. This rule establishes minimum instructional requirements that persons renting or leasing personal watercraft must provide to all individuals intending to operate the personal watercraft. The requirements include:

- operator responsibility and ethics;
- navigation rules;
- navigation aids, buoys and waterway markers;
- awareness to changes in weather and water conditions;
- water skiing and other activities specific to personal watercraft;
- boating accident causes, prevention, and legal requirements of the operator;
- propulsion, steering and stopping characteristics of personal watercraft; and
- awareness of other vessels and dangers of reckless operations, manatees, and environmental concerns.

The rule also specifies that a livery may not lease or rent a personal watercraft to any person unless, prior to rental, they show a safe operation instructional tape to, or provide and review safe operation literature with each prospective operator. That livery must also provide an on-the-water demonstration and observe each person who will operate the personal watercraft to verify the prospective operators' ability to safely handle the personal watercraft. Any person delivering this information on behalf of the livery must have successfully completed a boater safety course approved by the NASBLA and the state.

Effect of Proposed Changes

The bill amends s. 327.39, F.S., to increase the minimum age for operators of personal watercraft from fourteen years to sixteen years. The bill makes it a misdemeanor of the second degree for any person having charge or control over a personal watercraft to knowingly let a person younger than sixteen years operate that personal watercraft or to knowingly let any person operate that personal watercraft who does not have a boating safety identification card in compliance with s. 327.395, F.S. This extends to all persons, regardless of age, the requirement to have completed a boating safety course approved by the FWC before operating a personal watercraft.

The bill amends s. 327.39, F.S., to make it a misdemeanor of the second degree for the owner of, or any person having charge or control over any leased, hired, or rented personal watercraft to authorize or knowingly permit the watercraft to be operated by anyone who has not received instruction in the safe handling of personal watercraft in compliance with s. 327.54, F.S., as well as the rules of the FWC.

The bill amends s. 327.54, F.S., to require anyone who leases, hires, or rents a vessel to any person and who provides the information required by this section, to enroll in, attend, and successfully complete, at his or her own expense, a boating safety course that meets the minimum standards established by the FWC's rules. The bill deletes the statutory requirement that the course be approved by the NASBLA. However, the FWC's rules still require NASBLA approval.

The bill amends s. 327.54, F.S., to prohibit any livery from knowingly leasing, hiring, or renting a personal watercraft to any person who has not received instruction in safe handling of personal watercraft pursuant to rule 68D-36, F.A.C., or any other program established by the FWC. Also, any person obtaining a personal watercraft from a livery must provide the livery with a written statement attesting to their compliance with rule 68D-36, F.A.C., or any other program established by the FWC.

C. SECTION DIRECTORY:

Section 1: amends s. 327.39, F.S., revises certain requirements for owners and operators of personal watercraft.

Section 2: amends s. 327.54, F.S., revises requirements relating to the boating safety course required for leasing or renting a vessel or personal watercraft from a livery.

Section 3: provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See fiscal comments.

D. FISCAL COMMENTS:

Increasing the lawful age for operating a personal watercraft from fourteen to sixteen does not affect liveries since the minimum lawful age for renting a personal watercraft is eighteen⁴.

There may be an indeterminate fiscal impact on the private sector from decreased sales of personal watercraft vessels due to the change in lawful age of the operator of such vessel from 14 to 16.

⁴ Section 327.54(4)(a), F.S.
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DATE: 2/12/2008

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds, nor does it appear to reduce the authority that cities or counties have to raise revenues in the aggregate, nor does it appear to reduce the percentage of a state tax shared with cities or counties

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No additional rulemaking authority is granted to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill twice refers to rule 68D-36, F.A.C. This rule could subsequently be amended, repealed, or renumbered without statutory change. Consequently, liveries might be required to adhere to inappropriate rule requirements or might be relieved from compliance with necessary requirements.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to vessel safety; amending s. 327.39,
 3 F.S.; revising certain requirements for operating personal
 4 watercraft; amending s. 327.54, F.S.; revising the
 5 requirements relating to the boating safety course
 6 required for leasing or renting a vessel or personal
 7 watercraft from a livery; providing an effective date.

8

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

10

11 Section 1. Subsections (5) and (6) of section 327.39,
 12 Florida Statutes, are amended to read:

13

327.39 Personal watercraft regulated.--

14

(5) No person under the age of 16 ~~14~~ shall operate any
 15 personal watercraft on the waters of this state.

16

(6) (a) It is unlawful for the owner of any personal
 17 watercraft or any person having charge over or control of a
 18 personal watercraft to authorize or knowingly permit the same to
 19 be operated by a person under 16 ~~14~~ years of age in violation of
 20 this section or by a person who does not hold a boating safety
 21 identification card in compliance with s. 327.395.

22

(b) 1. It is unlawful for the owner of any leased, hired,
 23 or rented personal watercraft, or any person having charge over
 24 or control of a leased, hired, or rented personal watercraft, to
 25 authorize or knowingly permit the watercraft to be operated by
 26 any person who has not received instruction in the safe handling
 27 of personal watercraft, in compliance with s. 327.54 and rules
 28 established by the commission.

29 2. Any person receiving instruction in the safe handling
 30 of personal watercraft pursuant to s. 327.54 and any a program
 31 established by rule of the commission must provide the owner of,
 32 or person having charge of or control over, a leased, hired, or
 33 rented personal watercraft with a written statement attesting to
 34 the same.

35 3. The commission shall have the authority to establish
 36 rules pursuant to chapter 120 prescribing the instruction to be
 37 given, which shall take into account the nature and operational
 38 characteristics of personal watercraft and general principles
 39 and regulations pertaining to boating safety.

40 (c) Any person who violates this subsection commits a
 41 misdemeanor of the second degree, punishable as provided in s.
 42 775.082 or s. 775.083.

43 Section 2. Subsections (1) and (4) of section 327.54,
 44 Florida Statutes, are amended to read:

45 327.54 Liveries; safety regulations; penalty.--

46 (1) A livery may not knowingly lease, hire, or rent a
 47 vessel to any person:

48 (a) When the number of persons intending to use the vessel
 49 exceeds the number considered to constitute a maximum safety
 50 load for the vessel as specified on the authorized persons
 51 capacity plate of the vessel.

52 (b) When the horsepower of the motor exceeds the capacity
 53 of the vessel.

54 (c) When the vessel does not contain the required safety
 55 equipment required under s. 327.50.

56 (d) When the vessel is not seaworthy.

57 (e) When the vessel is equipped with a motor of 10
 58 horsepower or greater, unless the livery provides prerental or
 59 preride instruction that includes, but need not be limited to:
 60 1. Operational characteristics of the vessel to be rented.
 61 2. Safe vessel operation and vessel right-of-way.
 62 3. The responsibility of the vessel operator for the safe
 63 and proper operation of the vessel.
 64 4. Local characteristics of the waterway where the vessel
 65 will be operated.

66
 67 Any person delivering the information specified in this
 68 paragraph must enroll in, attend, and successfully complete, at
 69 his or her expense, have successfully completed a boating boater
 70 safety course that meets minimum standards established by
 71 commission rule approved by the National Association of State
 72 Boating Law Administrators and this state.

73 (f) Unless the livery displays boating safety information
 74 in a place visible to the renting public. The commission shall
 75 prescribe by rule pursuant to chapter 120, the contents and size
 76 of the boating safety information to be displayed.

77 (4) (a) A livery may not knowingly lease, hire, or rent a
 78 personal watercraft to any person who is under 18 years of age.

79 (b) A livery may not knowingly lease, hire, or rent a
 80 personal watercraft to any person who has not received
 81 instruction in the safe handling of personal watercraft pursuant
 82 to rule 68D-36, Florida Administrative Code, or any other rule,
 83 ~~in compliance with rules~~ established by the commission pursuant
 84 to chapter 120.

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85 (c) Any person receiving instruction in the safe handling
86 of personal watercraft pursuant to rule 68D-36, Florida
87 Administrative Code, or any other a program established by rule
88 of the commission, must provide the livery with a written
89 statement attesting to the same.



90 Section 3. This act shall take effect July 1, 2008.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 919
SPONSOR(S): Domino
TIED BILLS:

Commercial Parasailing

IDEN./SIM. BILLS: SB 406

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Conservation & State Lands</u>	_____	Palmer 	Zeiler 
2) <u>Environment & Natural Resources Council</u>	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill requires the owner of each vessel engaged in commercial parasailing to obtain – at a cost of \$50.00 – an annual license from the Fish and Wildlife Conservation Commission (FWC). The bill provides for licensing fees to be paid into the Marine Resources Conservation Trust Fund to allow FWC to recover costs associated with regulating commercial parasailing. The license is to be available for inspection whenever a vessel is engaged in commercial parasailing. As a condition of licensing, the bill requires proof of insurance from an insurance carrier licensed in Florida and specifies the minimum types and limits of insurance coverage that is to be obtained by the owner of the vessel. The bill also requires any person in charge or in command of a vessel engaged in commercial parasailing to have a valid license, issued by the U. S. Coast Guard, authorizing that person to engage in carrying passengers for hire. The bill sets conditions and limitations for the operation of a commercial parasailing vessel.

The bill does not appear to have a significant fiscal impact on state or local governments.

The bill would become effective on October 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: Extends FWC's regulatory authority, by providing for the FWC to regulate commercial parasailing.

Safeguard Individual Liberty: This bill establishes a licensing requirement and regulations for commercial parasailing operations.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Parasailing is the towing of one or more persons attached to a specially designed parachute, known as a parasail, and tethered to a towing vehicle such that they ascend into the air while the tow vehicle is underway. A person attached to the parasail is referred to as the parascender. The towing vehicle is typically a boat and provides most of the control over the parasail – the parascender has little or no control over the parasail.

Section 327.37, F.S., provides that a person may not operate a vessel on any waters of this state while towing a person attached to a parasail or similar device unless there is an observer in the vessel, other than the operator, who is in a position to observe the progress of the person being towed. Additionally, a person may not:

- engage in parasailing or any similar activity at any time between the hours from one-half hour after sunset to one-half hour before sunrise;
- engage in parasailing or any similar activity unless the parascender is wearing a non-inflatable type I, type II, type III, or type V personal flotation device approved by the United States Coast Guard;
- operate or manipulate any vessel, tow rope, or other device, in such a way as to cause the parasail or similar device to collide or strike against or be likely to collide or strike against any vessel, bridge, wharf, pier, dock, buoy, platform, piling, channel marker, or other object; or
- operate any vessel towing a parasail or engage in parasailing within 100 feet of the marked channel of the Florida Intracoastal Waterway.

Currently, there are no statutes regulating the operation of a commercial parasailing venture.

Effect of Proposed Changes

The bill amends s. 327.02, F.S., defining the terms "commercial parasailing" and "sustained wind speed". Commercial parasailing means to provide or offer to provide, for consideration, any activity involving the towing of one or more persons tethered to the towing vessel such that they ascend above the water and remain suspended above the water while the vessel is underway. Sustained wind speed means a wind speed determined by averaging the observed wind speed over a 2-minute period and rounding to the nearest whole knot¹.

The bill creates s. 327.375, F.S., requiring the owner of each vessel engaged in commercial parasailing to obtain – at a cost of \$50.00 – an annual license from the Fish and Wildlife Conservation Commission (FWC). The bill provides for licensing fees to be paid into the Marine Resources Conservation Trust Fund to allow FWC to recover costs associated with regulating commercial parasailing. The license is to be available for inspection whenever a vessel is engaged in commercial parasailing.

¹ A knot is 1.0 nautical mile per hour and is equivalent to 1.15 statute miles per hour.

As a condition of licensing, the bill requires proof of insurance. This insurance is to be carried by the owner of any vessel engaged in commercial parasailing and the policy is to be obtained from an insurance carrier licensed in this state. The policy is to insure against any accident, loss, injury, property damage, or other casualty caused by or resulting from any commercial parasailing activity and is to carry coverage of at least \$750,000 per person and \$1.5 million per event. The deductible for the insurance policy may not exceed \$5,000 per event. The owner must have proof of such insurance available for inspection at the location wherever commercial parasailing is offered or provided for consideration and shall provide to each customer, upon request, the insurance carrier's name and address and the insurance policy number.

The bill also requires any person in charge or in command of a vessel engaged in commercial parasailing to meet the following requirements:

- a person may not operate a vessel engaged in commercial parasailing on the waters of this state unless he has a current and valid license issued by the United States Coast Guard (USCG) authorizing him to engage in carrying passengers for hire -- the license must be appropriate for the number of passengers carried and the displacement of the vessel, must be carried on the vessel, and must be available for inspection while commercial parasailing activities are being conducted;
- riders are only to be launched from and recovered to the vessel;
- no more than two persons may be tethered to the towing vessel and ascend above the water at any time; and
- all riders must wear an appropriate floatation device approved by the United States Coast Guard, other than an inflatable device, that is in serviceable condition and of the proper size.

The bill requires an observer, other than the operator, that:

- is eighteen 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;
- is attentive to the parasail rider or riders and parasail equipment; and
- has no other duties while the rider or riders are in the water or suspended above the water.

The bill also specifies that a person may not operate a vessel towing a commercial parasailing rider in the Atlantic Ocean or the Gulf of Mexico unless the vessel, towline, and rider are:

- 2,000 feet or more from the shore;
- 600 feet or more from an anchored vessel, a person in the water, a seawall, structure, bridge, power line, wharf, pier, dock, buoy, platform, piling, channel marker, or other similar object.

The bill prohibits commercial parasailing:

- on any body of water less than 2,000 feet in width in its narrowest dimension from shore to shore in the area where the parasailing activity is taking place;
- from sunset to sunrise;
- at all times during restricted visibility as defined in the navigation rules; and
- when there is a sustained wind speed of 20 knots or higher in the area of operation.

Certain equipment requirements are provided by the bill. These requirements are:

- towlines used for commercial parasailing may not exceed 600 feet in length;
- the vessel must have a launch platform;
- all riders are connected to the towline and secured in a seat harness attached to an ascending type of parachute;
- the vessel must be 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
- the vessel must be equipped with a functional VHF marine transceiver.

C. SECTION DIRECTORY:

Section 1: Amends s. 327.02, F.S., providing definitions.

Section 2: Creates s. 327.375, F.S., providing regulation of commercial parasailing.

Section 3: Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Commercial parasailing operators are required to obtain a license from FWC at a cost of \$50. The owners of commercial parasailing vessels are required to carry an insurance policy.

D. FISCAL COMMENTS:

The bill has an insignificant fiscal impact on state revenues and expenditures. A licensing fee of \$50 is established. This fee is to be deposited into the Marine Resources Conservation Trust Fund and is to be used to offset the cost of the licensing program. FWC estimates that between \$3,500 and \$6,000 will be generated from the license fees and that this will be sufficient to cover the cost of implementing the licensing program.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds, nor does it appear to reduce the authority that cities or counties have to raise revenues in the aggregate, nor does it appear to reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No new rulemaking authority is granted to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to commercial parasailing; amending s.
 3 327.02, F.S.; defining the terms "commercial parasailing"
 4 and "sustained wind speed"; creating s. 327.375, F.S.;
 5 requiring each vessel engaged in commercial parasailing to
 6 obtain an annual license from the Fish and Wildlife
 7 Conservation Commission; requiring a fee; requiring proof
 8 of insurance as condition of licensure; requiring license
 9 to be available for inspection; providing for fees to be
 10 paid into the Marine Resources Conservation Trust Fund for
 11 certain uses; requiring specified types and limits of
 12 insurance coverage; requiring availability of proof of
 13 insurance; requiring specified insurance information to be
 14 provided to each rider upon request; requiring person
 15 operating such a vessel to have certain licenses;
 16 requiring an observer to be on each vessel; providing
 17 requirements for operation of commercial parasailing
 18 vessel; providing an effective date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Subsections (41) and (42) are added to section
 23 327.02, Florida Statutes, to read:

24 327.02 Definitions of terms used in this chapter and in
 25 chapter 328.--As used in this chapter and in chapter 328, unless
 26 the context clearly requires a different meaning, the term:

HB 919

2008

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

- 30 (a) One or more persons are tethered to the towing vessel;
- 31 (b) The person or persons ascend above the water; and
- 32 (c) The person or persons remain suspended above the water
 33 while the vessel is underway.

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

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

39 327.375 Commercial parasailing.--

40 (1) (a) No person shall operate or give permission for the
 41 operation of a vessel engaged in commercial parasailing unless
 42 the owner has obtained an annual license from the commission at
 43 a cost of \$50. Proof of insurance, as required in subsection
 44 (2), must be provided to the commission before a license may be
 45 issued.

46 (b) The license must be available for inspection when the
 47 vessel is engaged in commercial parasailing.

48 (c) All license fees collected under this subsection shall
 49 be paid into the Marine Resources Conservation Trust Fund to
 50 recover the associated costs of regulating commercial
 51 parasailing.

52 (2) The owner of a vessel engaged in commercial
 53 parasailing must obtain and carry a policy from an insurance
 54 carrier licensed in this state, insuring against an accident,

55 loss, injury, property damage, or other casualty caused by or
 56 resulting from the commercial parasailing activity. The
 57 insurance policy must provide coverage for a minimum of \$750,000
 58 per person and \$1.5 million per event. The deductible for the
 59 insurance policy may not exceed \$5,000 per event. Proof of
 60 insurance must be kept at any location where any person offers
 61 or agrees to conduct commercial parasailing activities and must
 62 be carried on any vessel conducting parasailing activities.
 63 Proof of insurance must be available for inspection whenever
 64 commercial parasailing activities are conducted. A person
 65 conducting a commercial parasailing activity must provide to
 66 each rider the insurance carrier's name and address and the
 67 insurance policy number upon request.

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

70 (a) A person may not operate any vessel for commercial
 71 parasailing unless it is designed and equipped for towing a
 72 person while parasailing and is equipped with a launch platform
 73 and powered winch to release and retrieve the towline.

74 (b) A person may not operate a vessel engaged in
 75 commercial parasailing on the waters of this state unless the
 76 person in charge of or in command of the vessel has a current
 77 and valid license issued by the United States Coast Guard
 78 authorizing that person to engage in carrying passengers for
 79 hire. The license must be appropriate for the number of
 80 passengers carried and the displacement of the vessel. The
 81 license must be carried on the vessel and be available for

82 inspection while commercial parasailing activities are
 83 conducted.

84 (c) A person may not operate a vessel for commercial
 85 parasailing unless an observer 18 years of age or older is
 86 present in the vessel at all times to monitor the progress of
 87 any airborne parasail rider and parasail equipment. The observer
 88 shall be attentive to the parasail rider or riders and equipment
 89 and may not have any other duties while the rider or riders are
 90 in the water or suspended above the water.

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

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

97 2. All riders are connected to the towline and secured in
 98 a seat harness attached to an ascending type of parachute;

99 3. The vessel is in full compliance with all requirements
 100 of the United States Coast Guard governing crewing and equipment
 101 carriage for passenger-carrying vessels as specified in the Code
 102 of Federal Regulations or as otherwise specified by the United
 103 States Coast Guard in the vessel's certificate of inspection;
 104 and

105 4. The vessel is equipped with a functional VHF marine
 106 transceiver.

107 (e) A person may not operate a vessel towing a commercial
 108 parasailing rider in the Atlantic Ocean or the Gulf of Mexico in
 109 waters less than 2,000 feet from the shore. The restriction

110 applies to the entire commercial parasailing apparatus,
 111 including the vessel, towline, and rider.

112 (f) A person may not operate a vessel towing a commercial
 113 parasailing rider so that the vessel, towline, or rider comes
 114 within 600 feet of:

- 115 1. An anchored vessel;
- 116 2. A person in the water;
- 117 3. The shore or seawall; or
- 118 4. A structure, bridge, power line, wharf, pier, dock,
 119 buoy, platform, piling, channel marker, or other similar object.

120 (g) Commercial parasailing is prohibited:

- 121 1. On any body of water less than 2,000 feet in width in
 122 its narrowest dimension from shore to shore in the area where
 123 the parasailing activity is taking place;
- 124 2. From sunset to sunrise and at all times during
 125 restricted visibility as defined in the navigation rules; and
- 126 3. When there is a sustained wind speed of 20 knots or
 127 higher in the area of operation.

128 (h) Towlines used for commercial parasailing may not
 129 exceed 600 feet in length.

130 (i) Commercial parasail operators shall launch riders only
 131 from and recover riders only to the vessel's launch platform.

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

134 Section 3. This act shall take effect October 1, 2008.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 919

COUNCIL/COMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER _____

1 Committee hearing bill: Committee on Conservation & State Lands
2 Representative Domino offered the following:

3
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Subsection (41) is added to section 327.02,
7 Florida Statutes, to read:

8 327.02 Definitions of terms used in this chapter and in
9 chapter 328.--As used in this chapter and in chapter 328, unless
10 the context clearly requires a different meaning, the term:

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

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

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

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

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

20 **327.375 Commercial parasailing.--**

21 (1) This section may be cited as the "Amber May White Act."

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

22 (2) The owner of a vessel engaged in commercial parasailing
23 may not offer or provide for consideration any parasailing
24 activity unless the owner first obtains and carries in full
25 force and effect a policy, from an insurance carrier licensed in
26 this state, insuring against any accident, loss, injury,
27 property damage, or other casualty caused by or resulting from
28 any commercial parasailing activity. The insurance policy shall
29 provide coverage of at least \$500,000 per person and \$1 million
30 per event. The owner must have proof of such insurance available
31 for inspection at the location wherever commercial parasailing
32 is offered or provided for consideration and shall provide to
33 each customer the insurance carrier's name and address and the
34 insurance policy number.

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

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

39 (b) A person may not operate a vessel engaged in commercial
40 parasailing on the waters of this state unless the person in
41 charge of or in command of the vessel has a current and valid
42 license issued by the United States Coast Guard authorizing that
43 person to engage in carrying passengers for hire. The license
44 must be appropriate for the number of passengers carried and the
45 displacement of the vessel. The license must be carried on the
46 vessel and be available for inspection while commercial
47 parasailing activities are conducted.

48 (c) A person may not operate a vessel for commercial
49 parasailing unless an observer 18 years of age or older is
50 present in the vessel at all times to monitor the progress of
51 any tethered parasail rider and parasail equipment. The observer
52 shall be attentive to the parasail rider or riders and equipment

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

53 and may not have any other duties while the rider or riders are
54 in the water or suspended above the water.

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

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

61 2. The vessel is in full compliance with all requirements
62 of the United States Coast Guard governing crewing and equipment
63 carriage for passenger-carrying vessels as specified in the Code
64 of Federal Regulations or as otherwise specified by the United
65 States Coast Guard in the vessel's certificate of inspection;
66 and

67 3. The vessel is equipped with a functional VHF marine
68 transceiver.

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

71 (4) Commercial parasailing is prohibited from one-half hour
72 after sunset to one-half hour before sunrise.

73 (5) Any person convicted of violating this section commits
74 a misdemeanor of the second degree, punishable as provided in s.
75 775.082 or s. 775.083.

76 Section 3. Section 327.50, Florida Statutes is amended to
77 read:

78 **327.50 Vessel safety regulations; equipment and lighting**
79 **requirements.--**

80 (1)~~(a)~~ The owner and operator of every vessel on the
81 waters of this state shall carry, store, maintain, and use
82 safety equipment in accordance with current United States Coast
83 Guard safety equipment requirements as specified in the Code of

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

84 Federal Regulations, unless expressly exempted by the
85 department.

86 ~~(b) No person shall operate a vessel less than 26 feet in~~
87 ~~length on the waters of this state unless every person under 6~~
88 ~~years of age on board the vessel is wearing a type I, type II,~~
89 ~~or type III Coast Guard approved personal flotation device while~~
90 ~~such vessel is underway. For the purpose of this section,~~
91 ~~"underway" shall mean at all times except when a vessel is~~
92 ~~anchored, moored, made fast to the shore, or aground.~~

93 (2) No person shall operate a vessel on the waters of this
94 state unless said vessel is equipped with properly serviceable
95 lights and shapes required by the navigation rules.

96 (3) The use of sirens or flashing, occulting, or revolving
97 lights on any vessel is prohibited, except as expressly provided
98 in the navigation rules or annexes thereto.

99 Section 4. This act shall take effect October 1, 2008.

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T I T L E A M E N D M E N T

Remove the entire title and insert:
An act relating to commercial parasailing; amending s.
327.02, F.S.; providing definition; creating 327.375;
providing a short title; requiring the owner of a vessel
engaged in commercial parasailing to obtain and carry an
insurance policy; providing minimum coverage from the
insurance policy; providing requirements for proof of
insurance; providing insurance information to be provided
to each rider; providing for launch and recovery of riders
from towing vessel; requiring a person engaged in operating

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

115 | a vessel for commercial parasailing to have certain
116 | licenses; requiring a minimum age for a person to monitor
117 | the progress of a parasail rider; providing requirements
118 | for operation of commercial parasailing vessels; requiring
119 | certain equipment; providing penalties; amending s. 327.50,
120 | F.S.; providing an effective date.

121

122

1 A bill to be entitled
 2 An act relating to Fort Zachary Taylor Historic State
 3 Park; creating s. 258.082, F.S.; requiring the Division of
 4 Recreation and Parks to amend the Fort Zachary Taylor
 5 Historic State Park Management Plan to require protection,
 6 maintenance, and preservation of the canopy of old
 7 Australian pine trees located on the grounds of the park
 8 for specified purposes; providing for the number of trees
 9 to be returned to those documented as existing in the
 10 Australian Pine Mapping Project of 2004; providing for the
 11 care and maintenance of such trees; providing for
 12 institution of a policy of controlled growth; providing
 13 that the act is not intended to authorize the sale or
 14 distribution of such trees; providing an effective date.

15
 16 WHEREAS, Fort Zachary Taylor Historic State Park,
 17 designated by the United States Department of Interior as a
 18 National Historic Landmark, has a towering canopy of old
 19 Australian pines, and

20 WHEREAS, the canopy of old Australian pines at Fort Zachary
 21 Taylor Historic State Park was the first growth on submerged
 22 federal land that was dredged and filled a half century ago, and

23 WHEREAS, the canopy of old Australian pines are drought
 24 tolerant, salt tolerant, low maintenance, energy efficient, and
 25 provide a beautifully unique and historic vista, and

26 WHEREAS, these Australian pines have become a cherished
 27 part of Fort Zachary Taylor Historic State Park's historical
 28 landscape, and

29 WHEREAS, the canopy of old Australian pines provides much-
 30 needed shade to park visitors, and

31 WHEREAS, the canopy of old Australian pines offers
 32 measurable social and economic benefits, NOW, THEREFORE,

33

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

35

36 Section 1. Section 258.082, Florida Statutes, is created
 37 to read:

38 258.082 Fort Zachary Taylor Historic State Park.--

39 (1) Notwithstanding ss. 369.251 and 369.252 and any other
 40 law, in order to preserve the historic character of Fort Zachary
 41 Taylor Historic State Park for future generations and to benefit
 42 all visitors to the park, the division shall:

43 (a) Amend the Fort Zachary Taylor Historic State Park
 44 Management Plan to require protection, maintenance, and
 45 preservation of the canopy of old Australian pine trees
 46 (*Casuarina equisetifolia*) located on the grounds of the park
 47 with the immediate objective of maintaining the old stand of
 48 Australian pines that existed on January 1, 2008, and with the
 49 long-term goal of restoring the number of Australian pines to
 50 those documented as existing in the Australian Pine Mapping
 51 Project of 2004;

52 (b) Commence a program of care and maintenance of
 53 Australian pine seedlings, young trees, and mature trees to
 54 ensure that the goals of paragraph (a) are achieved; and

HB 1215

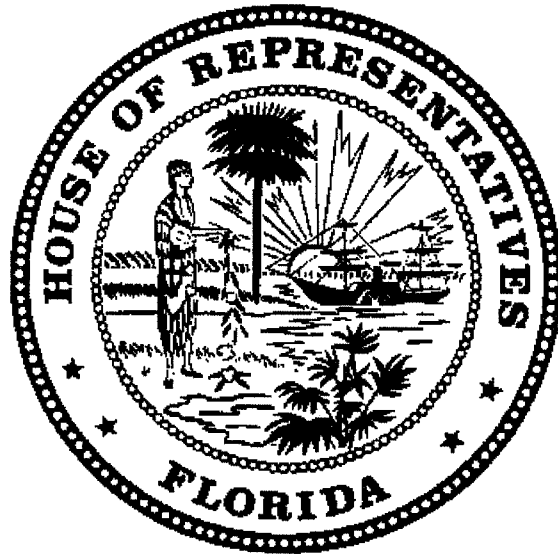
2008

55 (c) Initiate a professional maintenance program to nurture
56 and protect the old Australian pines canopy and institute a
57 policy of controlled growth for replacement of any pines lost.

58 (2) This section does not authorize the sale or
59 distribution of Australian pines to and from public or private
60 parties.

61 Section 2. This act shall take effect July 1, 2008.

**NO MATERIALS AVAILABLE FOR
PCB ENRC 08-09 FLORIDA
FOREVER SUCCESSOR,
AT THIS TIME.**



COMMITTEE ON CONSERVATION & STATE LANDS

WEDNESDAY, MARCH 19, 2008

3:00 PM – 6:00 PM

216 THE CAPITOL

1st ADDENDUM

**Marco Rubio
Speaker**

**Rep. Will Kendrick
Chair**

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 703

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Committee hearing bill: Committee on Conservation & State Lands
2 Representative Kiar offered the following:

3

4 **Amendment**

5 Remove line 20 and insert:

6 this section or by a person 21 years of age or younger who does
7 not hold a boating safety

8

9

AMENDMENTS

For

HB 703

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

Bill No. 703

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Committee hearing bill: Committee on Conservation & State Lands
2 Representative Kiar offered the following:

3
4 **Amendment**

5 Remove line(s) 82-87 and insert:
6 to rules of ~~in compliance with rules established by the~~
7 commission established pursuant to chapter 120.



8 (c) Any person receiving instruction in the safe handling
9 of personal watercraft pursuant to rules of the commission
10 established pursuant to chapter 120 or any other a program
11 established by rule
12
13

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1215
SPONSOR(S): Saunders
TIED BILLS:

Fort Zachary Taylor Historic State Park

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Conservation & State Lands</u>	_____	Palmer 	Zeiler 
2) <u>Environment & Natural Resources Council</u>	_____	_____	_____
3) <u>Policy & Budget Council</u>	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill requires the Fort Zachary Taylor Historic State Park Management Plan to be amended to require protection, maintenance, and preservation of the canopy of old Australian pine trees (*Casuarina equisetifolia*) located on the grounds of the park. The Department of Environmental Protection's Division of Recreation and Parks (division) is directed to commence a program of care and maintenance of Australian pine seedlings, young trees, and mature trees to ensure that these preservation goals are achieved. Furthermore, the division is to initiate a professional maintenance program to nurture and protect the old Australian Pines canopy at the park and to institute a policy of controlled growth for replacement of any pines lost. The provisions of this bill do not authorize any sale or distribution of Australian pines to or from any public or private parties.

The bill does not appear to have a significant fiscal impact on state or local governments (see fiscal comments).

The bill would become effective on July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: The bill requires amendment of a state park management plan to stop removal of certain trees and to establish a program to preserve those trees.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Fort Zachary Taylor is one of a series of military forts built in the mid-1800s to defend the nation's southeastern coastline. Completed in 1866, the fort played important roles in the Civil War and the Spanish-American War. The fort was designated a National Historic Landmark in 1973, and is Florida's southernmost state park. It is popular for recreation, as well as U.S. military history, with a beach at the southern end of the park that provides opportunities for picnicking, swimming, snorkeling, and fishing. Visitors can also enjoy a short nature trail and bicycling within the park. The park includes a significant stand of Australian Pine trees that provides a canopy of shade along the beach, a large open area with sparse vegetation, and the fort which is surrounded by a saltwater moat.¹

The Australian pine forest at the park is growing in a fill area and is the first growth for the site. The stand of trees has been in place for nearly fifty years and has become a much loved attraction for visitors. The Florida Department of Environmental Protection, Division of Recreation and Parks' (division) visitor information brochure identifies the shade provided by the Australian pines as one of the park's feature attractions.²

The University of Florida, Institute of Food and Agricultural Sciences reports³ that the Australian pine (*Casuarina equisetifolia*):

- has been long-favored for use in erosion control along beaches;
- is now outlawed in many parts of Florida due to its invasive nature, rapid growth rate, and non-native status;
- is not a true pine tree and is not related to the pines;
- is highly salt and drought tolerant, and has been widely used in seaside landscapes as a windbreak, screen, clipped hedge, and for topiary;
- withstands heat and other adverse conditions which has made the tree a favorite for street trees and yard specimens;
- grows in full sun or partial shade; and
- tolerates many adverse conditions — dry or wet soil, heat or high winds.

Section 369.252, F.S., directs the Department of Environmental Protection (DEP) to establish a program to achieve eradication or maintenance control of invasive exotic plants on public lands when the scientific data indicate that they are detrimental to the state's natural environment or when the Commissioner of Agriculture finds that such plants or specific populations are a threat to the agricultural productivity of the state. Section 369.251, F.S., provides the DEP authority to exempt these trees from the exotic vegetation control provisions if there is neither the danger of, nor intent to, further disperse the plant species. This site — being the southernmost point in the continental United States — is an on

¹ DEP, 2008. <http://www.floridastateparks.org/forttaylor/default.cfm>.

² DEP/DRP, 2007. Fort Zachary Taylor Historic State Park. Visitor Guide.

³ Institute of Food and Agricultural Sciences, 2007. Document ENH288. EDIS Web Site at <http://edis.ifas.ufl.edu>. University of Florida.

an island, the Australian Pine forest is the first growth vegetation at this site, there is no nearby agricultural activity, and the nearby environment is urban/suburban.

In response to a Key West Tree Commission (circa. 1993) insistence that the Australian pines at the Fort Zachary Taylor Historic State Park were not a pest at that location, the DEP said that, because of local community support for the shade provided by the Australian pines and due to the fact that the trees are growing on fill and do not pose a serious threat of spreading, there were no plans for the removal of the trees from the park⁴. In 2005, the Key West city council passed Resolution #04-13 supporting maintaining the Australian pines at the park. In 2006, the Monroe county commission passed Resolution 271-2006 requesting the state to designate the canopy of Australian pines at the park as an exception to removal as an exotic or invasive species, that the state institute a professional maintenance program to nurture and protect the Australian pines, and that the state institute a policy of controlled growth for replacement of lost trees.

However, the division has made removal of the Australian pines from the Fort Zachary Taylor Historic State Park a significant component of the park's land management plan. In an effort to maintain native, nature-based recreation for visitors, the division plans to develop a landscape with indigenous, native vegetation and in 2007 began a program of removal and replacement of the trees – at a cost of \$100,000 per year⁵. This plan requires removal of ten percent of the trees each year until all the trees are removed. The cleared areas will be replanted with native vegetation.

The division has held a public meeting in Key West to take testimony on the land management plan and its proposal to replace the Australian pine forest with young native vegetation. The division received extensive, nearly unanimous opposition to the proposed removal of the trees. The division's response was: "We agree with you folks 100 percent that shade is absolutely important. It's one of the most important recreational amenities . . . But our plan, and the removal of invasive exotics, has been policy of state parks and all state lands for 20 years."⁶

Effect of Proposed Changes

The bill creates s. 258.082, F.S., providing the Fort Zachary Taylor Historic State Park Management Plan be amended to require protection, maintenance, and preservation of the canopy of old Australian pine trees (*Casuarina equisetifolia*) located on the grounds of the park. The immediate objective is to maintain the old stand of Australian pines that existed on January 1, 2008. The long-term goal is to restore the number of Australian pines to those documented as existing in the Australian pine Mapping Project of 2004.

The division is directed to commence a program of care and maintenance of Australian pine seedlings, young trees, and mature trees to ensure that these preservation goals are achieved. Furthermore, the division is to initiate a professional maintenance program to nurture and protect the old Australian pines canopy at the Fort Zachary Taylor Historic State Park and to institute a policy of controlled growth for replacement of any pines lost.

The provisions of this bill do not authorize any sale or distribution of Australian pines to or from any public or private parties.

C. SECTION DIRECTORY:

Section 1: creates s. 258.082, F.S., requiring amendment of the Fort Zachary Taylor Historic State Park Management Plan

Section 2: provides an effective date of July 1, 2008.

⁴ Howell, Mark, April 25, 2003. *PINING FOR A DOOMED FOREST - Australian Pines Await the Far Pavilions*. SOLARES HILL, number 17.

⁵ DEP, 2008. Agency bill analysis.

⁶ The Miami Herald, October 22, 2007. Historic Fort's a Site for a Battle -- Over Trees.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

	<u>FY 08-09</u>	<u>FY 09-10</u>
Unit Management Plan Development	\$4,000	0
Development/Production of Education Interpretation Materials	\$10,000	0
Park Staff Time	\$3,000	\$3,000
Total:	\$17,000	\$3,000

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private sector professional nursery consultation may be necessary related to the implementation of the bill provisions. The DEP indicates a loss of competition for tree removal and native landscape business could serve to raise prices for similar native restoration efforts in the Florida Keys.

D. FISCAL COMMENTS:

State

The DEP indicates:

- The park unit management plan would need to be updated which would involve a series of meetings with the general public and park staff.
- Staff time would be needed infrequently to deal with dead or dying trees that threaten human safety.
- The state park seed source would create a long-term funding need.
- The current native landscaping plan at the park would be abandoned.
- Current education materials of the Florida Park Service address only the negative impacts of non-native, invasive species. New education materials would need to be developed to educate the public and park staff on the departure from current policy.
- It is not known how the DEP and the Florida Department of Agriculture and Consumer Services would resolve issues surrounding vegetation which both agencies currently prohibit.
- Funding related to Australian pine removal and native landscaping for the park would stop. The funding utilized for this service is approximately \$100,000 per year.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds, nor does it appear to reduce the authority that cities or counties have to raise revenues in the aggregate, nor does it appear to reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No new rulemaking authority is granted to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

