

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Duggan offered the following:

2

3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Section 327.4108, Florida Statutes, is amended
6 to read:

7 327.4108 Anchoring of vessels in anchoring limitation
8 areas.—

9 (1) (a) The following densely populated urban areas, which
10 have narrow state waterways, residential docking facilities, and
11 significant recreational boating traffic, are designated as and
12 shall be considered to be grandfathered-in anchoring limitation
13 areas:

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14 ~~1.(a)~~ The section of Middle River lying between Northeast
15 21st Court and the Intracoastal Waterway in Broward County.

16 ~~2.(b)~~ Sunset Lake in Miami-Dade County.

17 ~~3.(c)~~ The sections of Biscayne Bay in Miami-Dade County
18 lying between:

19 ~~a.1.~~ Rivo Alto Island and Di Lido Island.

20 ~~b.2.~~ San Marino Island and San Marco Island.

21 ~~c.3.~~ San Marco Island and Biscayne Island.

22 ~~(b)-(2)~~ To promote the public's use and enjoyment of the
23 designated waterway, except as provided in subsections (3) and
24 (4), a person may not anchor a vessel at any time during the
25 period between one-half hour after sunset and one-half hour
26 before sunrise in an anchoring limitation area designated under
27 this subsection.

28 (2)(a) Notwithstanding s. 327.60(2)(f), a county may
29 establish, in accordance with this subsection, an anchoring
30 limitation area adjacent to urban areas that have residential
31 docking facilities and significant recreational boating traffic.
32 The aggregate total of anchoring limitation areas in a county
33 may not exceed 10 percent of the county's delineated navigable-
34 in-fact waterways. As used in this subsection, the term
35 "navigable-in-fact waterways" means waterways that are navigable
36 in their natural or unimproved condition over which useful
37 commerce or public recreation of a substantial and permanent
38 character is or may be conducted in the customary mode of trade

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39 and travel on water. The term does not include lake or streams
40 that are theoretically navigable; have a potential for
41 navigability; or are temporary, precarious, and unprofitable,
42 but the term does include lakes or streams that have practical
43 usefulness to the public as highways for transportation. Each
44 anchoring limitation area must meet all of the following
45 requirements:

46 1. Be less than 100 acres in size. For purposes of this
47 subsection, the calculated size of the anchoring limitation area
48 does not include any portion of the marked channel of the
49 Florida Intracoastal Waterway contiguous to the anchoring
50 limitation area.

51 2. Not include any mooring field or marina.

52 3. Be clearly marked with all of the following:

53 a. Signs that provide reasonable notice to boaters
54 identifying the duration of time beyond which anchoring is
55 limited and identifying the county ordinance by which the
56 anchoring limitation area was created.

57 b. Buoys. The county that has created an anchoring
58 limitation area shall install and maintain buoys marking the
59 boundary of the anchoring limitation area.

60
61 The signs and buoys must be permitted and installed in
62 accordance with ss. 327.40 and 327.41 and commission rule.

63 (b) Except as provided in subsections (3) and (4), a

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64 person may not anchor a vessel for more than 45 consecutive days
65 in any 6-month period in an anchoring limitation area
66 established pursuant to this subsection.

67 (c) A county proposing establishment of an anchoring
68 limitation area in accordance with this subsection shall provide
69 notice to the commission 30 days before final adoption of an
70 ordinance establishing such anchoring limitation area. The
71 commission shall publish notice of the proposed ordinance on its
72 website and distribute such notice through the commission's
73 Boating and Waterways Section e-mail distribution list for
74 ordinances.

75 (3) Notwithstanding subsections (1) and ~~subsection~~ (2), a
76 person may anchor a vessel in an anchoring limitation area:

77 (a) If the vessel suffers a mechanical failure that poses
78 an unreasonable risk of harm to the vessel or the persons
79 onboard unless the vessel anchors. The vessel may anchor for 3
80 business days or until the vessel is repaired, whichever occurs
81 first.

82 (b) If imminent or existing weather conditions in the
83 vicinity of the vessel pose an unreasonable risk of harm to the
84 vessel or the persons onboard unless the vessel anchors. The
85 vessel may anchor until weather conditions no longer pose such
86 risk. During a hurricane or tropical storm, weather conditions
87 are deemed to no longer pose an unreasonable risk of harm when
88 the hurricane or tropical storm warning affecting the area has

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89 expired.

90 (c) During events described in s. 327.48 or other special
91 events, including, but not limited to, public music
92 performances, local government waterfront activities, or
93 fireworks displays. A vessel may anchor for the lesser of the
94 duration of the special event or 3 days.

95 (4) This section does not apply to:

96 (a) Vessels owned or operated by a governmental entity for
97 law enforcement, firefighting, military, or rescue purposes.

98 (b) Construction or dredging vessels on an active job
99 site.

100 (c) Vessels actively engaged in commercial fishing.

101 (d) Vessels engaged in recreational fishing if the persons
102 onboard are actively tending hook and line fishing gear or nets.

103 (5) (a) As used in this subsection, the term "law
104 enforcement officer or agency" means an officer or agency
105 authorized to enforce this section pursuant to s. 327.70.

106 (b)1. For a vessel in an anchoring limitation area
107 established pursuant to subsection (2), upon an inquiry by a law
108 enforcement officer or agency, a vessel owner or operator must
109 be given an opportunity to provide proof that the vessel has not
110 exceeded the limitations described in subsection (2). Such proof
111 may include any of the following:

112 a. Documentation showing that the vessel was in another
113 location at least 1 mile away within a period of less than 30

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114 days before the inquiry.

115 b. Electronic evidence, including, but not limited to,
116 navigational devices or tracking devices that show the vessel
117 was in another location at least 1 mile away within a period of
118 less than 30 days before the inquiry.

119 2. If a vessel owner or operator fails or refuses to
120 provide proof that the vessel has not exceeded the limitations
121 described in subsection (2), the law enforcement officer or
122 agency may issue a citation for a violation of this section.

123 (c) ~~(b)~~ A law enforcement officer or agency may remove a
124 vessel from an anchoring limitation area designated under
125 subsection (1) or established pursuant to subsection (2) and
126 impound the vessel for up to 48 hours, or cause such removal and
127 impoundment, if the vessel operator, after being issued a
128 citation for a violation of this section:

129 1. Anchors the vessel in violation of this section within
130 12 hours after being issued the citation; or

131 2. Refuses to leave the anchoring limitation area after
132 being directed to do so by a law enforcement officer or agency.

133 (d) A vessel that is the subject of more than three
134 violations within 12 months which result in dispositions other
135 than acquittal or dismissal shall be declared to be a public
136 nuisance and subject to s. 705.103, or for a derelict vessel,
137 subject to s. 823.11.

138 (e) ~~(e)~~ A law enforcement officer or agency acting under

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139 this subsection to remove or impound a vessel, or to cause such
140 removal or impoundment, shall be held harmless for any damage to
141 the vessel resulting from such removal or impoundment unless the
142 damage results from gross negligence or willful misconduct.

143 ~~(f)~~~~(d)~~ A contractor performing removal or impoundment
144 services at the direction of a law enforcement officer or agency
145 pursuant to this subsection must:

146 1. Be licensed in accordance with United States Coast
147 Guard regulations, as applicable.

148 2. Obtain and carry a current policy issued by a licensed
149 insurance carrier in this state to insure against any accident,
150 loss, injury, property damage, or other casualty caused by or
151 resulting from the contractor's actions.

152 3. Be properly equipped to perform such services.

153 ~~(g)~~~~(e)~~ In addition to the civil penalty imposed under s.
154 327.73(1)(z), the operator of a vessel that is removed and
155 impounded pursuant to paragraph ~~(c)~~~~(b)~~ must pay all removal and
156 storage fees before the vessel is released. A vessel removed
157 pursuant to paragraph ~~(c)~~~~(b)~~ may not be impounded for longer
158 than 48 hours.

159 (6) A violation of this section is punishable as
160 provided in s. 327.73(1)(z).

161 ~~(7) This section shall remain in effect notwithstanding the~~
162 ~~Legislature's adoption of the commission's recommendations for~~
163 ~~the regulation of mooring vessels outside of public mooring~~

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164 ~~fields pursuant to s. 327.4105.~~

165 Section 2. For the purpose of incorporating the amendment
166 made by this act to section 327.4108, Florida Statutes, in a
167 reference thereto, paragraph (z) of subsection (1) of section
168 327.73, Florida Statutes, is reenacted to read:

169 327.73 Noncriminal infractions.—

170 (1) Violations of the following provisions of the vessel
171 laws of this state are noncriminal infractions:

172 (z) Section 327.4108, relating to the anchoring of vessels
173 in anchoring limitation areas, for which the penalty is:

- 174 1. For a first offense, up to a maximum of \$50.
- 175 2. For a second offense, up to a maximum of \$100.
- 176 3. For a third or subsequent offense, up to a maximum of
177 \$250.

178

179 Any person cited for a violation of any provision of this
180 subsection shall be deemed to be charged with a noncriminal
181 infraction, shall be cited for such an infraction, and shall be
182 cited to appear before the county court. The civil penalty for
183 any such infraction is \$50, except as otherwise provided in this
184 section. Any person who fails to appear or otherwise properly
185 respond to a uniform boating citation shall, in addition to the
186 charge relating to the violation of the boating laws of this
187 state, be charged with the offense of failing to respond to such
188 citation and, upon conviction, be guilty of a misdemeanor of the

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189 second degree, punishable as provided in s. 775.082 or s.
190 775.083. A written warning to this effect shall be provided at
191 the time such uniform boating citation is issued.

192 Section 3. This act shall take effect upon becoming a law.
193

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

196 Remove everything before the enacting clause and insert:

197 A bill to be entitled

198 An act relating to anchoring limitation areas;
199 amending s. 327.4108, F.S.; providing that certain
200 areas are grandfathered-in anchoring limitation areas;
201 authorizing counties to establish anchoring limitation
202 areas that meet certain requirements; defining the
203 term "navigable in fact"; specifying size requirements
204 for the anchoring limitation areas; requiring the
205 anchoring limitation areas to be marked with signs and
206 buoys that meet certain requirements; prohibiting
207 vessels from anchoring in such areas for longer than a
208 specified time; requiring counties to provide notice
209 to the Fish and Wildlife Conservation Commission
210 within a specified timeframe before establishing an
211 anchoring limitation area; requiring the commission to
212 publish notice of the proposed ordinance on its
213 website and distribute an e-mail notice; requiring

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214 owners or operators in certain anchoring limitation
215 areas to be allowed to provide specified proof of
216 compliance with certain provisions; authorizing law
217 enforcement officers or agencies to issue citations
218 for violations under certain circumstances; providing
219 that vessels with a specified number of repeat
220 offenses within a specified timeframe shall be
221 declared public nuisances and subject to certain
222 provisions; removing applicability provisions relating
223 to the commission's recommendations; reenacting s.
224 327.73(1)(z), F.S., relating to noncriminal
225 infractions, to incorporate the amendment made to s.
226 327.4108, F.S., in a reference thereto; providing an
227 effective date.

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