

Amendment No.

COMMITTEE/SUBCOMMITTEE 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WITHDRAWN	_____	(Y/N)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/Subcommittee hearing bill: Environment, Agriculture &
2 Flooding Subcommittee

3 Representative Duggan offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 327.4108, Florida Statutes, is amended
8 to read:

9 327.4108 Anchoring of vessels in anchoring limitation
10 areas.—

11 (1) (a) The following densely populated urban areas, which
12 have narrow state waterways, residential docking facilities, and
13 significant recreational boating traffic, are designated as
14 anchoring limitation areas:

15 1.-(a) The section of Middle River lying between Northeast
16 21st Court and the Intracoastal Waterway in Broward County.

Amendment No.

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

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

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

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

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

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

29 (2)(a) Notwithstanding s. 327.60(2)(f), a county may
30 establish, in accordance with this subsection, an anchoring
31 limitation area within densely populated urban areas, which have
32 narrow state waterways, residential docking facilities, and
33 significant recreational boating traffic. The aggregate total of
34 anchoring limitation areas in a county may not exceed 10 percent
35 of the county's navigable waterways. Each anchoring limitation
36 area must meet all of the following requirements:

37 1. Be less than 100 acres in size. For purposes of this
38 subsection, the calculated size of the anchoring limitation area
39 does not include any portion of the marked channel of the
40 Florida Intracoastal Waterway contiguous to the anchoring
41 limitation area;

133229 - h1515-strike.docx

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Amendment No.

42 2. Not include any mooring fields; and

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

44 a. Signs that provide reasonable notice to boaters
45 identifying the duration of time beyond which anchoring is
46 limited and identifying the county ordinance with its enacting
47 date by which the anchoring limitation area was created. Any
48 ordinance adopted pursuant to this section may not take effect
49 until reviewed and approved as consistent with this section by
50 the commission.

51 b. Buoys. The county that has created an anchoring
52 limitation area shall install and maintain buoys marking the
53 boundary of the anchoring limitation area.

54 (b) Except as provided in subsections (3) and (4), a
55 person may not anchor a vessel for more than 30 consecutive days
56 in any 6-month period in an anchoring limitation area under this
57 subsection.

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

60 (a) If the vessel suffers a mechanical failure that poses
61 an unreasonable risk of harm to the vessel or the persons
62 onboard unless the vessel anchors. The vessel may anchor for 3
63 business days or until the vessel is repaired, whichever occurs
64 first.

65 (b) If imminent or existing weather conditions in the
66 vicinity of the vessel pose an unreasonable risk of harm to the

Amendment No.

67 vessel or the persons onboard unless the vessel anchors. The
68 vessel may anchor until weather conditions no longer pose such
69 risk. During a hurricane or tropical storm, weather conditions
70 are deemed to no longer pose an unreasonable risk of harm when
71 the hurricane or tropical storm warning affecting the area has
72 expired.

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

78 (4) This section does not apply to:

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

81 (b) Construction or dredging vessels on an active job
82 site.

83 (c) Vessels actively engaged in commercial fishing.

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

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

89 (b)1. For a vessel in an anchoring limitation area under
90 subsection (2), upon an inquiry by a law enforcement officer or
91 agency, a vessel owner or operator must be given an opportunity

Amendment No.

92 to provide proof that the vessel has not exceeded the
93 limitations described in subsection (2). Such proof may include
94 any of the following:

95 a. Documentation showing that the vessel was in another
96 location at least 1 mile away within a period of less than 30
97 days before the inquiry.

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

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

106 (c) ~~(b)~~ A law enforcement officer or agency may remove a
107 vessel from an anchoring limitation area under subsection (1) or
108 (2) and impound the vessel for up to 48 hours, or cause such
109 removal and impoundment, if the vessel operator, after being
110 issued a citation for a violation of this section:

111 1. Anchors the vessel in violation of this section within
112 12 hours after being issued the citation; or

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

115 (d) A vessel that is the subject of more than three
116 violations within 12 months which resulted in dispositions other

Amendment No.

117 than acquittal or dismissal shall be declared to be a public
118 nuisance and subject to s. 705.103, and for a derelict vessel,
119 subject to s. 823.11.

120 (e)~~(e)~~ A law enforcement officer or agency acting under
121 this subsection to remove or impound a vessel, or to cause such
122 removal or impoundment, shall be held harmless for any damage to
123 the vessel resulting from such removal or impoundment unless the
124 damage results from gross negligence or willful misconduct.

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

128 1. Be licensed in accordance with United States Coast
129 Guard regulations, as applicable.

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

134 3. Be properly equipped to perform such services.

135 (g)~~(e)~~ In addition to the civil penalty imposed under s.
136 327.73(1)(z), the operator of a vessel that is removed and
137 impounded pursuant to paragraph (c)~~(b)~~ must pay all removal and
138 storage fees before the vessel is released. A vessel removed
139 pursuant to paragraph (c)~~(b)~~ may not be impounded for longer
140 than 48 hours.

Amendment No.

141 (6) The commission shall initiate rulemaking by July 1,
142 2021, to provide criteria and procedures for reviewing
143 applications to establish an anchoring limitation area under
144 subsection (2) and procedures for public notice and
145 participation pursuant to this subsection. The rulemaking must
146 include, at a minimum, all of the following:

147 (a) Notice to the public. The Boating and Waterways
148 Section of the Fish and Wildlife Conservation Commission shall
149 provide notice of completed applications received, public
150 meetings or hearings concerning applications, and denial or
151 approval of applications on the section's web page and to all
152 parties listed in the Boating and Waterways Section's public
153 distribution list for ordinances, which any member of the public
154 may join.

155 (b) An opportunity for public participation. Members of
156 the public may provide written comments, recommendations,
157 requests, inquiries, or other correspondence to the Boating and
158 Waterways Section. If a public hearing or a review by the agency
159 head is requested, members of the public may testify at the
160 hearing or commission meeting and may submit relevant and
161 material exhibits to the record of the proceeding.

162 (7)-(6) A violation of this section is punishable as
163 provided in s. 327.73(1)(z).

164 ~~(7) This section shall remain in effect notwithstanding~~
165 ~~the Legislature's adoption of the commission's recommendations~~

133229 - h1515-strike.docx

Published On: 3/22/2021 2:57:26 PM

Amendment No.

166 ~~for the regulation of mooring vessels outside of public mooring~~
167 ~~fields pursuant to s. 327.4105.~~

168 Section 2. For the purpose of incorporating the amendment
169 made by this act to section 327.4108, Florida Statutes, in a
170 reference thereto, paragraph (z) of subsection (1) of section
171 327.73, Florida Statutes, is reenacted to read:

172 327.73 Noncriminal infractions.—

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

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

- 177 1. For a first offense, up to a maximum of \$50.
- 178 2. For a second offense, up to a maximum of \$100.
- 179 3. For a third or subsequent offense, up to a maximum of
180 \$250.

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

133229 - h1515-strike.docx

Published On: 3/22/2021 2:57:26 PM

Amendment No.

191 citation and, upon conviction, be guilty of a misdemeanor of the
192 second degree, punishable as provided in s. 775.082 or s.
193 775.083. A written warning to this effect shall be provided at
194 the time such uniform boating citation is issued.

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

196

197

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

199 Remove everything before the enacting clause and insert:
200 An act relating to anchoring limitation areas; amending s.
201 327.4108, F.S.; authorizing counties to establish anchoring
202 limitation areas that meet certain requirements; providing
203 that specified established anchoring limitation areas are
204 exempt from specified provisions; specifying size
205 requirements for the anchoring limitation areas; requiring
206 the anchoring limitation areas to be marked with signs and
207 buoys that meet certain requirements; prohibiting vessels
208 from anchoring in such areas for longer than a specified
209 time; requiring vessel owners or operators to be allowed to
210 provide specified proof of compliance with certain
211 provisions; providing that vessels with repeat offenses
212 within a specified timeframe shall be declared public
213 nuisances and subject to certain provisions; requiring the
214 Fish and Wildlife Conservation Commission to initiate
215 rulemaking by a certain date; providing requirements for

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1515 (2021)

Amendment No.

216 | such rulemaking; reenacting s. 327.73(1)(z), F.S., relating
217 | to noncriminal infractions, to incorporate the amendment
218 | made to s. 327.4108, F.S., in a reference thereto;
219 | providing an effective date.