

1 A bill to be entitled
2 An act relating to anchoring limitation areas;
3 amending s. 327.4108, F.S.; authorizing counties to
4 establish anchoring limitation areas that meet certain
5 requirements; providing that specified established
6 anchoring limitation areas are exempt from specified
7 provisions; specifying size requirements for the
8 anchoring limitation areas; requiring the anchoring
9 limitation areas to be marked with signs and buoys
10 that meet certain requirements; prohibiting vessels
11 from anchoring in such areas for longer than a
12 specified time; defining the term "law enforcement or
13 code enforcement officer or agency"; requiring vessel
14 owners or operators to be allowed to provide specified
15 proof of compliance with certain provisions; providing
16 that vessels with repeat offenses within a specified
17 timeframe shall be declared public nuisances and
18 subject to certain provisions; providing that code
19 enforcement officers or agencies, in addition to law
20 enforcement officers or agencies, will be held
21 harmless for removal actions under certain
22 circumstances; requiring the Fish and Wildlife
23 Conservation Commission to initiate rulemaking by a
24 certain date; reenacting s. 327.73(1)(z), F.S.,
25 relating to noncriminal infractions, to incorporate

26 the amendment made to s. 327.4108, F.S., in a
 27 reference thereto; providing an effective date.

28

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

30

31 Section 1. Section 327.4108, Florida Statutes, is amended
 32 to read:

33 327.4108 Anchoring of vessels in anchoring limitation
 34 areas.—

35 (1) Notwithstanding s. 327.60(2)(f), a county may
 36 establish, in accordance with this section, an anchoring
 37 limitation area within ~~The following~~ densely populated urban
 38 areas, which have narrow state waterways, residential docking
 39 facilities, and significant recreational boating traffic. The
 40 following areas previously designated as anchoring limitation
 41 areas are grandfathered-in anchoring limitation areas for which
 42 subsections (2), (3), (6), and (7) do not apply, ~~are designated~~
 43 ~~as anchoring limitation areas:~~

44 (a) The section of Middle River lying between Northeast
 45 21st Court and the Intracoastal Waterway in Broward County.

46 (b) Sunset Lake in Miami-Dade County.

47 (c) The sections of Biscayne Bay in Miami-Dade County
 48 lying between:

49 1. Rivo Alto Island and Di Lido Island.

50 2. San Marino Island and San Marco Island.

51 3. San Marco Island and Biscayne Island.
 52 (2) Each anchoring limitation area must:
 53 (a) Be less than 200 acres in size;
 54 (b) Comprise less than 10 percent of the county's
 55 navigable waterways; and
 56 (c) Be clearly marked with all of the following:
 57 1. Signs that provide reasonable notice to boaters which
 58 identify the duration of time beyond which anchoring is limited
 59 and identify the county ordinance with its enacting date by
 60 which the anchoring limitation area was created. Any ordinance
 61 adopted pursuant to this section may not take effect until
 62 reviewed and approved as consistent with this section by the
 63 commission.
 64 2. Buoys. The county that has created an anchoring
 65 limitation area shall install and maintain buoys marking the
 66 boundary of the anchoring limitation area.
 67 ~~(3)(2) To promote the public's use and enjoyment of the~~
 68 ~~designated waterway,~~ Except as provided in subsections (4) ~~(3)~~
 69 and (5) ~~(4)~~, a person may not anchor a vessel for more than 30
 70 consecutive days in any 6-month ~~at any time during the period~~
 71 ~~between one-half hour after sunset and one-half hour before~~
 72 ~~sunrise~~ in an anchoring limitation area.
 73 (4)(3) Notwithstanding the limitations described in
 74 subsection (3) ~~(2)~~, a person may anchor a vessel in an anchoring
 75 limitation area:

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

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

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

94 (5)~~(4)~~ This section does not apply to:

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

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

99 (c) Vessels actively engaged in commercial fishing.

100 (d) Vessels engaged in recreational fishing if the persons

101 onboard are actively tending hook and line fishing gear or nets.

102 (6) (a) ~~(5) (a)~~ As used in this subsection, the term "law
 103 enforcement or code enforcement officer or agency" means the
 104 Fish and Wildlife Conservation Commission, the county sheriff,
 105 the United States Coast Guard, a county code compliance agency,
 106 and authorized enforcement personnel of any of the foregoing ~~an~~
 107 ~~officer or agency authorized to enforce this section pursuant to~~
 108 ~~s. 327.70.~~

109 (b) Upon an inquiry by a law enforcement or code
 110 enforcement officer or agency, a vessel owner or operator shall
 111 be given an opportunity to provide proof that the vessel has not
 112 exceeded the limitations described in subsection (3). Such proof
 113 may include any of the following:

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

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

121 (c) ~~(b)~~ If a vessel owner or operator fails or refuses to
 122 provide proof that the vessel has not exceeded the limitations
 123 prescribed in subsection (3), the ~~a~~ law enforcement or code
 124 enforcement officer or agency may remove a vessel from an
 125 anchoring limitation area and impound the vessel for up to 48

126 | hours, or cause such removal and impoundment, if the vessel
 127 | operator, after being issued a citation for a violation of this
 128 | 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 or code enforcement
 133 | officer or agency.

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

138 | (e)~~(e)~~ A law enforcement or code enforcement officer or
 139 | agency acting under this subsection to remove or impound a
 140 | vessel, or to cause such removal or impoundment, shall be held
 141 | harmless for any damage to the vessel resulting from such
 142 | removal or impoundment unless the damage results from gross
 143 | negligence or willful misconduct.

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

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

149 | 2. Obtain and carry a current policy issued by a licensed
 150 | insurance carrier in this state to insure against any accident,

151 loss, injury, property damage, or other casualty caused by or
152 resulting from the contractor's actions.

153 3. Be properly equipped to perform such services.

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

160 (7) The commission shall initiate rulemaking by July 1,
161 2021, to provide criteria and procedures for reviewing
162 applications and procedures for public notice and participation
163 pursuant to this subsection. The rulemaking must include, at a
164 minimum, all of the following:

165 (a) Notice to the public. The Boating and Waterways
166 Section of the Fish and Wildlife Conservation Commission shall
167 provide notice of completed applications received, public
168 meetings or hearings concerning applications, and denial or
169 approval of applications on the section's web page and to all
170 parties listed in the Boating and Waterways Section's public
171 distribution list for ordinances, which any member of the public
172 may join.

173 (b) An opportunity for public participation. Members of
174 the public may provide written comments, recommendations,
175 requests, inquiries, or other correspondence to the Boating and

176 Waterways Section. If a public hearing is requested or a review
177 by the agency head is requested, members of the public may
178 testify at the hearing or commission meeting and may submit
179 relevant and material exhibits to the record of the proceeding.

180 ~~(8)(6)~~ A violation of this section is punishable as
181 provided in s. 327.73(1)(z).

182 ~~(7) This section shall remain in effect notwithstanding~~
183 ~~the Legislature's adoption of the commission's recommendations~~
184 ~~for the regulation of mooring vessels outside of public mooring~~
185 ~~fields pursuant to s. 327.4105.~~

186 Section 2. For the purpose of incorporating the amendment
187 made by this act to section 327.4108, Florida Statutes, in a
188 reference thereto, paragraph (z) of subsection (1) of section
189 327.73, Florida Statutes, is reenacted to read:

190 327.73 Noncriminal infractions.—

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

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

- 195 1. For a first offense, up to a maximum of \$50.
- 196 2. For a second offense, up to a maximum of \$100.
- 197 3. For a third or subsequent offense, up to a maximum of
198 \$250.

199

200 Any person cited for a violation of any provision of this

201 subsection shall be deemed to be charged with a noncriminal
202 infraction, shall be cited for such an infraction, and shall be
203 cited to appear before the county court. The civil penalty for
204 any such infraction is \$50, except as otherwise provided in this
205 section. Any person who fails to appear or otherwise properly
206 respond to a uniform boating citation shall, in addition to the
207 charge relating to the violation of the boating laws of this
208 state, be charged with the offense of failing to respond to such
209 citation and, upon conviction, be guilty of a misdemeanor of the
210 second degree, punishable as provided in s. 775.082 or s.
211 775.083. A written warning to this effect shall be provided at
212 the time such uniform boating citation is issued.

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