

1 A bill to be entitled
2 An act relating to anchoring limitation areas;
3 amending s. 327.4108, F.S.; providing that certain
4 areas are grandfathered-in anchoring limitation areas;
5 authorizing counties to establish anchoring limitation
6 areas that meet certain requirements; providing that
7 specified established anchoring limitation areas are
8 exempt from specified provisions; specifying size
9 requirements for the anchoring limitation areas;
10 requiring the anchoring limitation areas to be marked
11 with signs and buoys that meet certain requirements;
12 prohibiting vessels from anchoring in such areas for
13 longer than a specified time; requiring vessel owners
14 or operators to be allowed to provide specified proof
15 of compliance with certain provisions; providing that
16 vessels with repeat offenses within a specified
17 timeframe shall be declared public nuisances and
18 subject to certain provisions; requiring the Fish and
19 Wildlife Conservation Commission to initiate
20 rulemaking by a certain date; providing requirements
21 for such rulemaking; removing applicability provisions
22 relating to the commission's recommendations;
23 reenacting s. 327.73(1)(z), F.S., relating to
24 noncriminal infractions, to incorporate the amendment
25 made to s. 327.4108, F.S., in a reference thereto;

26 | providing an effective date.

27 |

28 | Be It Enacted by the Legislature of the State of Florida:

29 |

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

32 | 327.4108 Anchoring of vessels in anchoring limitation
33 | areas.—

34 | (1) (a) The following densely populated urban areas, which
35 | have narrow state waterways, residential docking facilities, and
36 | significant recreational boating traffic, are designated as and
37 | shall be considered to be grandfathered-in anchoring limitation
38 | areas:

39 | 1.(a) The section of Middle River lying between Northeast
40 | 21st Court and the Intracoastal Waterway in Broward County.

41 | 2.(b) Sunset Lake in Miami-Dade County.

42 | 3.(c) The sections of Biscayne Bay in Miami-Dade County
43 | lying between:

44 | a.1. Rivo Alto Island and Di Lido Island.

45 | b.2. San Marino Island and San Marco Island.

46 | c.3. San Marco Island and Biscayne Island.

47 | (b)(2) To promote the public's use and enjoyment of the
48 | designated waterway, except as provided in subsections (3) and
49 | (4), a person may not anchor a vessel at any time during the
50 | period between one-half hour after sunset and one-half hour

51 before sunrise in an anchoring limitation area under this
52 subsection.

53 (2) (a) Notwithstanding s. 327.60(2) (f), a county may
54 establish, in accordance with this subsection, an anchoring
55 limitation area within densely populated urban areas, which have
56 narrow state waterways, residential docking facilities, and
57 significant recreational boating traffic. The aggregate total of
58 anchoring limitation areas in a county may not exceed 10 percent
59 of the county's navigable waterways. Each anchoring limitation
60 area must meet all of the following requirements:

61 1. Be less than 100 acres in size. For purposes of this
62 subsection, the calculated size of the anchoring limitation area
63 does not include any portion of the marked channel of the
64 Florida Intracoastal Waterway contiguous to the anchoring
65 limitation area;

66 2. Not include any mooring fields; and

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

68 a. Signs that provide reasonable notice to boaters
69 identifying the duration of time beyond which anchoring is
70 limited and identifying the county ordinance with its enacting
71 date by which the anchoring limitation area was created. Any
72 ordinance adopted pursuant to this section may not take effect
73 until reviewed and approved as consistent with this section by
74 the commission.

75 b. Buoys. The county that has created an anchoring
 76 limitation area shall install and maintain buoys marking the
 77 boundary of the anchoring limitation area.

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

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

84 (a) If the vessel suffers a mechanical failure that poses
 85 an unreasonable risk of harm to the vessel or the persons
 86 onboard unless the vessel anchors. The vessel may anchor for 3
 87 business days or until the vessel is repaired, whichever occurs
 88 first.

89 (b) If imminent or existing weather conditions in the
 90 vicinity of the vessel pose an unreasonable risk of harm to the
 91 vessel or the persons onboard unless the vessel anchors. The
 92 vessel may anchor until weather conditions no longer pose such
 93 risk. During a hurricane or tropical storm, weather conditions
 94 are deemed to no longer pose an unreasonable risk of harm when
 95 the hurricane or tropical storm warning affecting the area has
 96 expired.

97 (c) During events described in s. 327.48 or other special
 98 events, including, but not limited to, public music
 99 performances, local government waterfront activities, or

100 fireworks displays. A vessel may anchor for the lesser of the
 101 duration of the special event or 3 days.

102 (4) This section does not apply to:

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

105 (b) Construction or dredging vessels on an active job
 106 site.

107 (c) Vessels actively engaged in commercial fishing.

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

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

113 (b)1. For a vessel in an anchoring limitation area under
 114 subsection (2), upon an inquiry by a law enforcement officer or
 115 agency, a vessel owner or operator must be given an opportunity
 116 to provide proof that the vessel has not exceeded the
 117 limitations described in subsection (2). Such proof may include
 118 any of the following:

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

122 b. Electronic evidence, including, but not limited to,
 123 navigational devices or tracking devices that show the vessel

124 was in another location at least 1 mile away within a period of
 125 less than 30 days before the inquiry.

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

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

135 1. Anchors the vessel in violation of this section within
 136 12 hours after being issued the citation; or

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

139 (d) A vessel that is the subject of more than three
 140 violations within 12 months which resulted in dispositions other
 141 than acquittal or dismissal shall be declared to be a public
 142 nuisance and subject to s. 705.103, and for a derelict vessel,
 143 subject to s. 823.11.

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

149 ~~(f)-(d)~~ A contractor performing removal or impoundment
150 services at the direction of a law enforcement officer or agency
151 pursuant to this subsection must:

152 1. Be licensed in accordance with United States Coast
153 Guard regulations, as applicable.

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

158 3. Be properly equipped to perform such services.

159 ~~(g)-(e)~~ In addition to the civil penalty imposed under s.
160 327.73(1)(z), the operator of a vessel that is removed and
161 impounded pursuant to paragraph ~~(c)-(b)~~ must pay all removal and
162 storage fees before the vessel is released. A vessel removed
163 pursuant to paragraph ~~(c)-(b)~~ may not be impounded for longer
164 than 48 hours.

165 (6) The commission shall initiate rulemaking by July 1,
166 2021, to provide criteria and procedures for reviewing
167 applications to establish an anchoring limitation area under
168 subsection (2) and procedures for public notice and
169 participation pursuant to this subsection. The rulemaking must
170 include, at a minimum, all of the following:

171 (a) Notice to the public. The Boating and Waterways
172 Section of the Fish and Wildlife Conservation Commission shall
173 provide notice of completed applications received, public

174 meetings or hearings concerning applications, and denial or
175 approval of applications on the section's web page and to all
176 parties listed in the Boating and Waterways Section's public
177 distribution list for ordinances, which any member of the public
178 may join.

179 (b) An opportunity for public participation. Members of
180 the public may provide written comments, recommendations,
181 requests, inquiries, or other correspondence to the Boating and
182 Waterways Section. If a public hearing or a review by the agency
183 head is requested, members of the public may testify at the
184 hearing or commission meeting and may submit relevant and
185 material exhibits to the record of the proceeding.

186 (7)(6) A violation of this section is punishable as
187 provided in s. 327.73(1)(z).

188 ~~(7) This section shall remain in effect notwithstanding~~
189 ~~the Legislature's adoption of the commission's recommendations~~
190 ~~for the regulation of mooring vessels outside of public mooring~~
191 ~~fields pursuant to s. 327.4105.~~

192 Section 2. For the purpose of incorporating the amendment
193 made by this act to section 327.4108, Florida Statutes, in a
194 reference thereto, paragraph (z) of subsection (1) of section
195 327.73, Florida Statutes, is reenacted to read:

196 327.73 Noncriminal infractions.—

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

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

- 201 1. For a first offense, up to a maximum of \$50.
- 202 2. For a second offense, up to a maximum of \$100.
- 203 3. For a third or subsequent offense, up to a maximum of
204 \$250.

205

206 Any person cited for a violation of any provision of this
207 subsection shall be deemed to be charged with a noncriminal
208 infraction, shall be cited for such an infraction, and shall be
209 cited to appear before the county court. The civil penalty for
210 any such infraction is \$50, except as otherwise provided in this
211 section. Any person who fails to appear or otherwise properly
212 respond to a uniform boating citation shall, in addition to the
213 charge relating to the violation of the boating laws of this
214 state, be charged with the offense of failing to respond to such
215 citation and, upon conviction, be guilty of a misdemeanor of the
216 second degree, punishable as provided in s. 775.082 or s.
217 775.083. A written warning to this effect shall be provided at
218 the time such uniform boating citation is issued.

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