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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2021	.	
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The Committee on Rules (Polsky) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

327.4108 Anchoring of vessels in anchoring limitation
areas.—

(1) (a) The following densely populated urban areas, which
have narrow state waterways, residential docking facilities, and
significant recreational boating traffic, are designated as and



12 shall be considered to be grandfathered-in anchoring limitation
13 areas:

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
39 and travel on water. The term does not include lake or streams
40 that are theoretically navigable; have a potential for



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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; and

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



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

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

111 a. Documentation showing that the vessel was in another
112 location at least 1 mile away within a period of less than 45
113 days before the inquiry.

114 b. Electronic evidence, including, but not limited to,
115 navigational devices or tracking devices that show the vessel
116 was in another location at least 1 mile away within a period of
117 less than 45 days before the inquiry.

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

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



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

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

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

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

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

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

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

151 3. Be properly equipped to perform such services.

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



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157 than 48 hours.

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

160 ~~(7) This section shall remain in effect notwithstanding the~~
161 ~~Legislature's adoption of the commission's recommendations for~~
162 ~~the regulation of mooring vessels outside of public mooring~~
163 ~~fields pursuant to s. 327.4105.~~

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

168 327.73 Noncriminal infractions.—

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

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

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

177
178 Any person cited for a violation of any provision of this
179 subsection shall be deemed to be charged with a noncriminal
180 infraction, shall be cited for such an infraction, and shall be
181 cited to appear before the county court. The civil penalty for
182 any such infraction is \$50, except as otherwise provided in this
183 section. Any person who fails to appear or otherwise properly
184 respond to a uniform boating citation shall, in addition to the
185 charge relating to the violation of the boating laws of this



186 state, be charged with the offense of failing to respond to such
187 citation and, upon conviction, be guilty of a misdemeanor of the
188 second degree, punishable as provided in s. 775.082 or s.
189 775.083. A written warning to this effect shall be provided at
190 the time such uniform boating citation is issued.

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

192
193 ===== T I T L E A M E N D M E N T =====

194 And the title is amended as follows:

195 Delete everything before the enacting clause
196 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
214 owners or operators in certain anchoring limitation



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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.