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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/22/2021	.	
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The Committee on Environment and Natural Resources (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



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11 significant recreational boating traffic, are designated as
12 anchoring limitation areas:

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

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

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

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

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

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

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

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

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



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40 2. Not include any mooring fields; and
41 3. Be clearly marked with all of the following:
42 a. Signs that provide reasonable notice to boaters
43 identifying the duration of time beyond which anchoring is
44 limited and identifying the county ordinance with its enacting
45 date by which the anchoring limitation area was created. Any
46 ordinance adopted pursuant to this section may not take effect
47 until reviewed and approved as consistent with this section by
48 the commission.

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

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

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

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

63 (b) If imminent or existing weather conditions in the
64 vicinity of the vessel pose an unreasonable risk of harm to the
65 vessel or the persons onboard unless the vessel anchors. The
66 vessel may anchor until weather conditions no longer pose such
67 risk. During a hurricane or tropical storm, weather conditions
68 are deemed to no longer pose an unreasonable risk of harm when



69 the hurricane or tropical storm warning affecting the area has
70 expired.

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

76 (4) This section does not apply to:

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

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

80 (c) Vessels actively engaged in commercial fishing.

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

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

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

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

95 b. Electronic evidence, including, but not limited to,
96 navigational devices or tracking devices that show the vessel
97 was in another location at least 1 mile away within a period of



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98 less than 30 days before the inquiry.

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

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

108 1. Anchors the vessel in violation of this section within
109 12 hours after being issued the citation; or

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

112 (d) A vessel that is the subject of more than three
113 violations within 12 months which resulted in dispositions other
114 than acquittal or dismissal shall be declared to be a public
115 nuisance and subject to ss. 705.103, and for a derelict vessel,
116 subject to 823.11.

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

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

125 1. Be licensed in accordance with United States Coast Guard
126 regulations, as applicable.



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

131 3. Be properly equipped to perform such services.

132 (g)~~(e)~~ In addition to the civil penalty imposed under s.
133 327.73(1)(z), the operator of a vessel that is removed and
134 impounded pursuant to paragraph (c)~~(b)~~ must pay all removal and
135 storage fees before the vessel is released. A vessel removed
136 pursuant to paragraph (c)~~(b)~~ may not be impounded for longer
137 than 48 hours.

138 (6) The commission shall initiate rulemaking by July 1,
139 2021, to provide criteria and procedures for reviewing
140 applications to establish an anchoring limitation area under
141 subsection (2) and procedures for public notice and
142 participation pursuant to this subsection. The rulemaking must
143 include, at a minimum, all of the following:

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

151 (b) An opportunity for public participation. Members of the
152 public may provide written comments, recommendations, requests,
153 inquiries, or other correspondence to the Boating and Waterways
154 Section. If a public hearing or a review by the agency head is
155 requested, members of the public may testify at the hearing or



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156 commission meeting and may submit relevant and material exhibits
157 to the record of the proceeding.

158 (7)~~(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



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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.

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

196 And the title is amended as follows:

197 Delete everything before the enacting clause
198 and insert:

199 A bill to be entitled

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 that
203 specified established anchoring limitation areas are exempt from
204 specified provisions; specifying size requirements for the
205 anchoring limitation areas; requiring the anchoring limitation
206 areas to be marked with signs and buoys that meet certain
207 requirements; prohibiting vessels from anchoring in such areas
208 for longer than a specified time; requiring vessel owners or
209 operators in certain anchoring limitation areas to be allowed to
210 provide specified proof of compliance with certain provisions;
211 providing that vessels with repeat offenses within a specified
212 timeframe shall be declared public nuisances and subject to
213 certain provisions; requiring the Fish and Wildlife Conservation



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214 Commission to initiate rulemaking by a certain date; providing
215 requirements for such rulemaking; removing applicability
216 provisions relating to the commission's recommendations;
217 reenacting s. 327.73(1)(z), F.S., relating to noncriminal
218 infractions, to incorporate the amendment made to s. 327.4108,
219 F.S., in a reference thereto; providing an effective date.