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LEGISLATIVE ACTION

Senate

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House

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Floor: 1/AD/2R

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04/21/2021 12:20 PM

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Senator Polsky moved 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



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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 (4) ~~(3)~~  
24 and (5) ~~(4)~~, a person may not anchor a vessel at any time during  
25 the 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, except  
29 for a county included in an area of critical state concern, may  
30 establish, in accordance with this subsection, an anchoring  
31 limitation area adjacent to urban areas that have residential  
32 docking facilities and significant recreational boating traffic.  
33 The aggregate total of anchoring limitation areas in a county  
34 may not exceed 10 percent of the county's delineated navigable-  
35 in-fact waterways. As used in this subsection, the term  
36 "navigable-in-fact waterways" means waterways that are navigable  
37 in their natural or unimproved condition over which useful  
38 commerce or public recreation of a substantial and permanent  
39 character is or may be conducted in the customary mode of trade  
40 and travel on water. The term does not include lakes or streams



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41 that are theoretically navigable; have a potential for  
42 navigability; or are temporary, precarious, and unprofitable,  
43 but the term does include lakes or streams that have practical  
44 usefulness to the public as highways for transportation. Each  
45 anchoring limitation area must meet all of the following  
46 requirements:

47 1. Be less than 100 acres in size. For purposes of this  
48 subsection, the calculated size of the anchoring limitation area  
49 does not include any portion of the marked channel of the  
50 Florida Intracoastal Waterway contiguous to the anchoring  
51 limitation area;

52 2. Not include any mooring field or marina; and

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

54 a. Signs that provide reasonable notice to boaters  
55 identifying the duration of time beyond which anchoring is  
56 limited and identifying the county ordinance by which the  
57 anchoring limitation area was created.

58 b. Buoys. The county that has created an anchoring  
59 limitation area shall install and maintain buoys marking the  
60 boundary of the anchoring limitation area.

61  
62 The signs and buoys must be permitted and installed in  
63 accordance with ss. 327.40 and 327.41 and commission rule.

64 (b) Except as provided in subsections (4) and (5), a person  
65 may not anchor a vessel for more than 45 consecutive days in any  
66 6-month period in an anchoring limitation area established  
67 pursuant to this subsection.

68 (c) A county proposing establishment of an anchoring  
69 limitation area in accordance with this subsection shall provide



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70 notice to the commission at least 30 days before introducing an  
71 ordinance to establish the anchoring limitation area. The  
72 commission shall publish notice of the proposed ordinance on its  
73 website and distribute such notice through the commission's  
74 Boating and Waterways Section e-mail distribution list for  
75 ordinances.

76 (3) (a) Any coastal waterways within the jurisdiction of a  
77 county that is included in an area of critical state concern are  
78 designated as anchoring limitation areas. Within such areas, a  
79 vessel on waters of the state may be anchored in the same  
80 location only for a maximum of 90 days. The commission shall  
81 adopt rules to implement this subsection.

82 (b) The anchoring limitations in this subsection do not  
83 apply to approved and permitted moorings or mooring fields.

84 (c) Notwithstanding the commission rules adopted pursuant  
85 to this subsection, this section is not effective for Monroe  
86 County until the county approves, permits, and opens new  
87 moorings for public use, including at least 250 moorings within  
88 1 mile of the Key West Bight City Dock and at least 50 moorings  
89 within the Key West Garrison Bight Mooring Field. Until such  
90 time, the commission shall designate the area within 1 mile of  
91 the Key West Bight City Dock as a priority for the investigation  
92 and removal of derelict vessels.

93 (4) ~~(3)~~ Notwithstanding subsections (1), ~~subsection (2), and~~  
94 (3), a person may anchor a vessel in an anchoring limitation  
95 area:

96 (a) If the vessel suffers a mechanical failure that poses  
97 an unreasonable risk of harm to the vessel or the persons  
98 onboard unless the vessel anchors. The vessel may anchor for 3



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99 business days or until the vessel is repaired, whichever occurs  
100 first.

101 (b) If imminent or existing weather conditions in the  
102 vicinity of the vessel pose an unreasonable risk of harm to the  
103 vessel or the persons onboard unless the vessel anchors. The  
104 vessel may anchor until weather conditions no longer pose such  
105 risk. During a hurricane or tropical storm, weather conditions  
106 are deemed to no longer pose an unreasonable risk of harm when  
107 the hurricane or tropical storm warning affecting the area has  
108 expired.

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

114 (5)~~(4)~~ This section does not apply to:

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

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

118 (c) Vessels actively engaged in commercial fishing.

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

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

124 (b)1. For a vessel in an anchoring limitation area  
125 established pursuant to subsection (2), upon an inquiry by a law  
126 enforcement officer or agency, a vessel owner or operator must  
127 be given an opportunity to provide proof that the vessel has not



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128 exceeded the limitations described in subsection (2). Such proof  
129 may include any of the following:

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

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

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

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

147 1. Anchors the vessel in violation of this section within  
148 12 hours after being issued the citation; or

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

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

156 (e) ~~(c)~~ A law enforcement officer or agency acting under



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157 this subsection to remove or impound a vessel, or to cause such  
158 removal or impoundment, shall be held harmless for any damage to  
159 the vessel resulting from such removal or impoundment unless the  
160 damage results from gross negligence or willful misconduct.

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

164 1. Be licensed in accordance with United States Coast Guard  
165 regulations, as applicable.

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

170 3. Be properly equipped to perform such services.

171 (g)~~(e)~~ In addition to the civil penalty imposed under s.  
172 327.73(1)(z), the operator of a vessel that is removed and  
173 impounded pursuant to paragraph (c) ~~(b)~~ must pay all removal and  
174 storage fees before the vessel is released. A vessel removed  
175 pursuant to paragraph (c) ~~(b)~~ may not be impounded for longer  
176 than 48 hours.

177 (7)~~(6)~~ A violation of this section is punishable as  
178 provided in s. 327.73(1)(z).

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

183 Section 2. For the purpose of incorporating the amendment  
184 made by this act to section 327.4108, Florida Statutes, in a  
185 reference thereto, paragraph (z) of subsection (1) of section



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186 327.73, Florida Statutes, is reenacted to read:

187 327.73 Noncriminal infractions.—

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

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

192 1. For a first offense, up to a maximum of \$50.

193 2. For a second offense, up to a maximum of \$100.

194 3. For a third or subsequent offense, up to a maximum of  
195 \$250.

196

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

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

211

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

213 And the title is amended as follows:

214 Delete everything before the enacting clause





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215 and insert:

216                   A bill to be entitled  
217           An act relating to anchoring limitation areas;  
218           amending s. 327.4108, F.S.; providing that certain  
219           areas are grandfathered-in anchoring limitation areas;  
220           authorizing certain counties to establish anchoring  
221           limitation areas that meet certain requirements;  
222           defining the term "navigable-in-fact waterways";  
223           specifying size requirements for the anchoring  
224           limitation areas; requiring the anchoring limitation  
225           areas to be marked with signs and buoys that meet  
226           certain requirements; prohibiting vessels from  
227           anchoring in such areas for longer than a specified  
228           time; requiring counties to provide notice to the Fish  
229           and Wildlife Conservation Commission within a  
230           specified timeframe before introducing an ordinance to  
231           establish an anchoring limitation area; requiring the  
232           commission to publish notice of the proposed ordinance  
233           on its website and distribute an e-mail notice;  
234           designating coastal waterways within counties in areas  
235           of critical state concern as anchoring limitation  
236           areas; providing requirements for such areas;  
237           requiring the commission to adopt rules; providing  
238           applicability; prohibiting Monroe County from  
239           establishing an anchoring limitation area until the  
240           county meets certain requirements; requiring the  
241           commission to designate a specified area as a priority  
242           for the investigation and removal of derelict vessels  
243           until certain conditions are met; requiring owners or



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244 operators in certain anchoring limitation areas to be  
245 allowed to provide specified proof of compliance with  
246 certain provisions; authorizing law enforcement  
247 officers or agencies to issue citations for violations  
248 under certain circumstances; providing that vessels  
249 with a specified number of repeat offenses within a  
250 specified timeframe shall be declared public nuisances  
251 and subject to certain provisions; removing  
252 applicability provisions relating to the commission's  
253 recommendations; reenacting s. 327.73(1)(z), F.S.,  
254 relating to noncriminal infractions, to incorporate  
255 the amendment made to s. 327.4108, F.S., in a  
256 reference thereto; providing an effective date.