

By Senator Polsky

29-01494-21

20211946__

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; providing requirements for such
25 rulemaking; removing applicability provisions relating
26 to the commission's recommendations; reenacting s.
27 327.73(1)(z), F.S., relating to noncriminal
28 infractions, to incorporate the amendment made to s.
29 327.4108, F.S., in a reference thereto; providing an

29-01494-21

20211946__

30 effective date.

31
32 Be It Enacted by the Legislature of the State of Florida:

33
34 Section 1. Section 327.4108, Florida Statutes, is amended
35 to read:

36 327.4108 Anchoring of vessels in anchoring limitation
37 areas.—

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

47 (a) The section of Middle River lying between Northeast
48 21st Court and the Intracoastal Waterway in Broward County.

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

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

52 1. Rivo Alto Island and Di Lido Island.

53 2. San Marino Island and San Marco Island.

54 3. San Marco Island and Biscayne Island.

55 (2) Each anchoring limitation area must:

56 (a) Be less than 200 acres in size;

57 (b) Comprise less than 10 percent of the county's navigable
58 waterways; and

29-01494-21

20211946__

59 (c) Be clearly marked with all of the following:

60 1. Signs that provide reasonable notice to boaters which
61 identify the duration of time beyond which anchoring is limited
62 and identify the county ordinance with its enacting date by
63 which the anchoring limitation area was created. Any ordinance
64 adopted pursuant to this section may not take effect until
65 reviewed and approved as consistent with this section by the
66 commission.

67 2. Buoys. The county that has created an anchoring
68 limitation area shall install and maintain buoys marking the
69 boundary of the anchoring limitation area.

70 ~~(3)(2) To promote the public's use and enjoyment of the~~
71 ~~designated waterway,~~ Except as provided in subsections (4) (3)
72 and (5) (4), a person may not anchor a vessel for more than 30
73 consecutive days in any 6-month at any time during the period
74 ~~between one-half hour after sunset and one-half hour before~~
75 ~~sunrise~~ in an anchoring limitation area.

76 ~~(4)(3)~~ Notwithstanding the limitations described in
77 subsection (3) (2), a person may anchor a vessel in an anchoring
78 limitation area:

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

84 (b) If imminent or existing weather conditions in the
85 vicinity of the vessel pose an unreasonable risk of harm to the
86 vessel or the persons onboard unless the vessel anchors. The
87 vessel may anchor until weather conditions no longer pose such

29-01494-21

20211946__

88 risk. During a hurricane or tropical storm, weather conditions
89 are deemed to no longer pose an unreasonable risk of harm when
90 the hurricane or tropical storm warning affecting the area has
91 expired.

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

97 ~~(5)(4)~~ This section does not apply to:

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

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

101 (c) Vessels actively engaged in commercial fishing.

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

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

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

116 1. Documentation showing that the vessel was in another

29-01494-21

20211946__

117 location at least 1 mile away within a period of less than 30
118 days before the inquiry.

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

123 (c) ~~(b)~~ If a vessel owner or operator fails or refuses to
124 provide proof that the vessel has not exceeded the limitations
125 prescribed in subsection (3), the a law enforcement or code
126 enforcement officer or agency may remove a vessel from an
127 anchoring limitation area and impound the vessel for up to 48
128 hours, or cause such removal and impoundment, if the vessel
129 operator, after being issued a citation for a violation of this
130 section:

131 1. Anchors the vessel in violation of this section within
132 12 hours after being issued the citation; or

133 2. Refuses to leave the anchoring limitation area after
134 being directed to do so by a law enforcement or code enforcement
135 officer or agency.

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

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

29-01494-21

20211946__

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

149 1. Be licensed in accordance with United States Coast Guard
150 regulations, as applicable.

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

155 3. Be properly equipped to perform such services.

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

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

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

174 (b) An opportunity for public participation. Members of the

29-01494-21

20211946__

175 public may provide written comments, recommendations, requests,
176 inquiries, or other correspondence to the Boating and Waterways
177 Section. If a public hearing is requested or a review by the
178 agency head is requested, members of the public may testify at
179 the hearing or commission meeting and may submit relevant and
180 material exhibits to the record of the proceeding.

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

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

187 Section 2. For the purpose of incorporating the amendment
188 made by this act to section 327.4108, Florida Statutes, in a
189 reference thereto, paragraph (z) of subsection (1) of section
190 327.73, Florida Statutes, is reenacted to read:

191 327.73 Noncriminal infractions.—

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

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

- 196 1. For a first offense, up to a maximum of \$50.
- 197 2. For a second offense, up to a maximum of \$100.
- 198 3. For a third or subsequent offense, up to a maximum of
199 \$250.

200
201 Any person cited for a violation of any provision of this
202 subsection shall be deemed to be charged with a noncriminal
203 infraction, shall be cited for such an infraction, and shall be

29-01494-21

20211946__

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

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