

**By** the Committee on Environment and Natural Resources; and  
Senators Polsky and Bean

592-03179-21

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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; requiring vessel owners or operators  
13      in certain anchoring limitation areas to be allowed to  
14      provide specified proof of compliance with certain  
15      provisions; providing that vessels with repeat  
16      offenses within a specified timeframe shall be  
17      declared public nuisances and subject to certain  
18      provisions; requiring the Fish and Wildlife  
19      Conservation Commission to initiate rulemaking by a  
20      certain date; providing requirements for such  
21      rulemaking; removing applicability provisions relating  
22      to the commission's recommendations; reenacting s.  
23      327.73(1)(z), F.S., relating to noncriminal  
24      infractions, to incorporate the amendment made to s.  
25      327.4108, F.S., in a reference thereto; providing an  
26      effective date.

27  
28   Be It Enacted by the Legislature of the State of Florida:  
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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  
37 anchoring limitation areas:

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

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

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

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

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

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

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

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

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59 area must meet all of the following requirements:

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

65 2. Not include any mooring fields; and

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

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

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

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

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

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

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

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

101 (4) This section does not apply to:

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

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

105 (c) Vessels actively engaged in commercial fishing.

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

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

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

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

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

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

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

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

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

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

143 (e) ~~(e)~~ A law enforcement officer or agency acting under  
144 this subsection to remove or impound a vessel, or to cause such  
145 removal or impoundment, shall be held harmless for any damage to

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146 the vessel resulting from such removal or impoundment unless the  
147 damage results from gross negligence or willful misconduct.

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

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

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

157 3. Be properly equipped to perform such services.

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

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

170 (a) Notice to the public. The Boating and Waterways Section  
171 of the Fish and Wildlife Conservation Commission shall provide  
172 notice of completed applications received, public meetings or  
173 hearings concerning applications, and denial or approval of  
174 applications on the section's web page and to all parties listed

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175 in the Boating and Waterways Section's public distribution list  
176 for ordinances, which any member of the public may join.

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

184 (7)-(6) A violation of this section is punishable as  
185 provided in s. 327.73(1)(z).

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

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

194 327.73 Noncriminal infractions.—

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

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

- 199 1. For a first offense, up to a maximum of \$50.
- 200 2. For a second offense, up to a maximum of \$100.
- 201 3. For a third or subsequent offense, up to a maximum of
- 202 \$250.
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204 Any person cited for a violation of any provision of this  
205 subsection shall be deemed to be charged with a noncriminal  
206 infraction, shall be cited for such an infraction, and shall be  
207 cited to appear before the county court. The civil penalty for  
208 any such infraction is \$50, except as otherwise provided in this  
209 section. Any person who fails to appear or otherwise properly  
210 respond to a uniform boating citation shall, in addition to the  
211 charge relating to the violation of the boating laws of this  
212 state, be charged with the offense of failing to respond to such  
213 citation and, upon conviction, be guilty of a misdemeanor of the  
214 second degree, punishable as provided in s. 775.082 or s.  
215 775.083. A written warning to this effect shall be provided at  
216 the time such uniform boating citation is issued.

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