

By the Committees on Community Affairs; and Environment and Natural Resources; and Senators Polsky and Bean

578-03613-21

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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.; providing that certain
4 areas are grandfathered-in anchoring limitation areas;
5 authorizing counties to establish anchoring limitation
6 areas that meet certain requirements; providing that
7 specified established anchoring limitation areas are
8 exempt from specified provisions; specifying size
9 requirements for the anchoring limitation areas;
10 requiring the anchoring limitation areas to be marked
11 with signs and buoys that meet certain requirements;
12 prohibiting vessels from anchoring in such areas for
13 longer than a specified time; requiring vessel owners
14 or operators in certain anchoring limitation areas to
15 be allowed to provide specified proof of compliance
16 with certain provisions; providing that vessels with
17 repeat offenses within a specified timeframe shall be
18 declared public nuisances and subject to certain
19 provisions; requiring the Fish and Wildlife
20 Conservation Commission to initiate rulemaking by a
21 certain date; providing requirements for such
22 rulemaking; removing applicability provisions relating
23 to the commission's recommendations; reenacting s.
24 327.73(1)(z), F.S., relating to noncriminal
25 infractions, to incorporate the amendment made to s.
26 327.4108, F.S., in a reference thereto; providing an
27 effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

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

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

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

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

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

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

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

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

(2) (a) Notwithstanding s. 327.60(2)(f), a county may establish, in accordance with this subsection, an anchoring limitation area within densely populated urban areas, which have narrow state waterways, residential docking facilities, and significant recreational boating traffic. The aggregate total of

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59 anchoring limitation areas in a county may not exceed 10 percent
60 of the county's navigable waterways. Each anchoring limitation
61 area must meet all of the following requirements:

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

67 2. Not include any mooring fields; and

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

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

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

79 (b) Except as provided in subsections (3) and (4), a person
80 may not anchor a vessel for more than 30 consecutive days in any
81 6-month period in an anchoring limitation area established
82 pursuant to this subsection.

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

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

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88 business days or until the vessel is repaired, whichever occurs
89 first.

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

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

103 (4) This section does not apply to:

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

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

107 (c) Vessels actively engaged in commercial fishing.

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

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

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

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

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

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

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

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

136 1. Anchors the vessel in violation of this section within
137 12 hours after being issued the citation; or

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

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

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

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146 this subsection to remove or impound a vessel, or to cause such
147 removal or impoundment, shall be held harmless for any damage to
148 the vessel resulting from such removal or impoundment unless the
149 damage results from gross negligence or willful misconduct.

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

153 1. Be licensed in accordance with United States Coast Guard
154 regulations, as applicable.

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

159 3. Be properly equipped to perform such services.

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

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

172 (a) Notice to the public. The Boating and Waterways Section
173 of the Fish and Wildlife Conservation Commission shall provide
174 notice of completed applications received, public meetings or

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175 hearings concerning applications, and denial or approval of
176 applications on the section's web page and to all parties listed
177 in the Boating and Waterways Section's public distribution list
178 for ordinances, which any member of the public may join.

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

186 (7)-(6) A violation of this section is punishable as
187 provided in s. 327.73(1)(z).

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

192 Section 2. For the purpose of incorporating the amendment
193 made by this act to section 327.4108, Florida Statutes, in a
194 reference thereto, paragraph (z) of subsection (1) of section
195 327.73, Florida Statutes, is reenacted to read:

196 327.73 Noncriminal infractions.—

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

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

- 201 1. For a first offense, up to a maximum of \$50.
- 202 2. For a second offense, up to a maximum of \$100.
- 203 3. For a third or subsequent offense, up to a maximum of

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204 \$250.

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206 Any person cited for a violation of any provision of this
207 subsection shall be deemed to be charged with a noncriminal
208 infraction, shall be cited for such an infraction, and shall be
209 cited to appear before the county court. The civil penalty for
210 any such infraction is \$50, except as otherwise provided in this
211 section. Any person who fails to appear or otherwise properly
212 respond to a uniform boating citation shall, in addition to the
213 charge relating to the violation of the boating laws of this
214 state, be charged with the offense of failing to respond to such
215 citation and, upon conviction, be guilty of a misdemeanor of the
216 second degree, punishable as provided in s. 775.082 or s.
217 775.083. A written warning to this effect shall be provided at
218 the time such uniform boating citation is issued.

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