

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

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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; defining the  
7       term "navigable-in-fact waterways"; specifying size  
8       requirements for the anchoring limitation areas;  
9       requiring the anchoring limitation areas to be marked  
10      with signs and buoys that meet certain requirements;  
11      prohibiting vessels from anchoring in such areas for  
12      longer than a specified time; requiring counties to  
13      provide notice to the Fish and Wildlife Conservation  
14      Commission within a specified timeframe before  
15      establishing an anchoring limitation area; requiring  
16      the commission to publish notice of the proposed  
17      ordinance on its website and distribute an e-mail  
18      notice; prohibiting Monroe County from establishing an  
19      anchoring limitation area until the county meets  
20      certain requirements; requiring the commission to  
21      designate a specified area as a priority for the  
22      investigation and removal of derelict vessels until  
23      certain conditions are met; requiring owners or  
24      operators in certain anchoring limitation areas to be  
25      allowed to provide specified proof of compliance with  
26      certain provisions; authorizing law enforcement  
27      officers or agencies to issue citations for violations  
28      under certain circumstances; providing that vessels  
29      with a specified number of repeat offenses within a

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30 specified timeframe shall be declared public nuisances  
31 and subject to certain provisions; removing  
32 applicability provisions relating to the commission's  
33 recommendations; reenacting s. 327.73(1)(z), F.S.,  
34 relating to noncriminal infractions, to incorporate  
35 the amendment made to s. 327.4108, F.S., in a  
36 reference thereto; providing an effective date.  
37

38 Be It Enacted by the Legislature of the State of Florida:  
39

40 Section 1. Section 327.4108, Florida Statutes, is amended  
41 to read:

42 327.4108 Anchoring of vessels in anchoring limitation  
43 areas.—

44 (1) (a) The following densely populated urban areas, which  
45 have narrow state waterways, residential docking facilities, and  
46 significant recreational boating traffic, are designated as and  
47 shall be considered to be grandfathered-in anchoring limitation  
48 areas:

49 1. ~~(a)~~ The section of Middle River lying between Northeast  
50 21st Court and the Intracoastal Waterway in Broward County.

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

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

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

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

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

57 (b) ~~(2)~~ To promote the public's use and enjoyment of the  
58 designated waterway, except as provided in subsections (3) and

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59 (4), a person may not anchor a vessel at any time during the  
60 period between one-half hour after sunset and one-half hour  
61 before sunrise in an anchoring limitation area designated under  
62 this subsection.

63 (2) (a) Notwithstanding s. 327.60 (2) (f), a county may  
64 establish, in accordance with this subsection, an anchoring  
65 limitation area adjacent to urban areas that have residential  
66 docking facilities and significant recreational boating traffic.  
67 The aggregate total of anchoring limitation areas in a county  
68 may not exceed 10 percent of the county's delineated navigable-  
69 in-fact waterways. As used in this subsection, the term  
70 "navigable-in-fact waterways" means waterways that are navigable  
71 in their natural or unimproved condition over which useful  
72 commerce or public recreation of a substantial and permanent  
73 character is or may be conducted in the customary mode of trade  
74 and travel on water. The term does not include lakes or streams  
75 that are theoretically navigable; have a potential for  
76 navigability; or are temporary, precarious, and unprofitable,  
77 but the term does include lakes or streams that have practical  
78 usefulness to the public as highways for transportation. Each  
79 anchoring limitation area must meet all of the following  
80 requirements:

81 1. Be less than 100 acres in size. For purposes of this  
82 subsection, the calculated size of the anchoring limitation area  
83 does not include any portion of the marked channel of the  
84 Florida Intracoastal Waterway contiguous to the anchoring  
85 limitation area;

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

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

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88 a. Signs that provide reasonable notice to boaters  
89 identifying the duration of time beyond which anchoring is  
90 limited and identifying the county ordinance by which the  
91 anchoring limitation area was created.

92 b. Buoys. The county that has created an anchoring  
93 limitation area shall install and maintain buoys marking the  
94 boundary of the anchoring limitation area.

95  
96 The signs and buoys must be permitted and installed in  
97 accordance with ss. 327.40 and 327.41 and commission rule.

98 (b) Except as provided in subsections (3) and (4), a person  
99 may not anchor a vessel for more than 45 consecutive days in any  
100 6-month period in an anchoring limitation area established  
101 pursuant to this subsection.

102 (c) A county proposing establishment of an anchoring  
103 limitation area in accordance with this subsection shall provide  
104 notice to the commission 30 days before final adoption of an  
105 ordinance establishing such anchoring limitation area. The  
106 commission shall publish notice of the proposed ordinance on its  
107 website and distribute such notice through the commission's  
108 Boating and Waterways Section e-mail distribution list for  
109 ordinances.

110 (d) Monroe County may not establish an anchoring limitation  
111 area under this subsection until the county approves, permits,  
112 and opens new moorings for public use, including at least 250  
113 moorings within 1 mile of the Key West Bight City Dock and at  
114 least 50 moorings within the Key West Garrison Bight Mooring  
115 Field. Until such time, the commission shall designate the area  
116 within 1 mile of the Key West Bight City Dock as a priority for

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117 the investigation and removal of derelict vessels.

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

120 (a) If the vessel suffers a mechanical failure that poses  
121 an unreasonable risk of harm to the vessel or the persons  
122 onboard unless the vessel anchors. The vessel may anchor for 3  
123 business days or until the vessel is repaired, whichever occurs  
124 first.

125 (b) If imminent or existing weather conditions in the  
126 vicinity of the vessel pose an unreasonable risk of harm to the  
127 vessel or the persons onboard unless the vessel anchors. The  
128 vessel may anchor until weather conditions no longer pose such  
129 risk. During a hurricane or tropical storm, weather conditions  
130 are deemed to no longer pose an unreasonable risk of harm when  
131 the hurricane or tropical storm warning affecting the area has  
132 expired.

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

138 (4) This section does not apply to:

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

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

142 (c) Vessels actively engaged in commercial fishing.

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

145 (5) (a) As used in this subsection, the term "law

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146 enforcement officer or agency" means an officer or agency  
147 authorized to enforce this section pursuant to s. 327.70.

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

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

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

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

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

171 1. Anchors the vessel in violation of this section within  
172 12 hours after being issued the citation; or

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

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

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

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

188 1. Be licensed in accordance with United States Coast Guard  
189 regulations, as applicable.

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

194 3. Be properly equipped to perform such services.

195 (g)~~(e)~~ In addition to the civil penalty imposed under s.  
196 327.73(1)(z), the operator of a vessel that is removed and  
197 impounded pursuant to paragraph (c) ~~(b)~~ must pay all removal and  
198 storage fees before the vessel is released. A vessel removed  
199 pursuant to paragraph (c) ~~(b)~~ may not be impounded for longer  
200 than 48 hours.

201 (6) A violation of this section is punishable as provided  
202 in s. 327.73(1)(z).

203 ~~(7) This section shall remain in effect notwithstanding the~~

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204 ~~Legislature's adoption of the commission's recommendations for~~  
205 ~~the regulation of mooring vessels outside of public mooring~~  
206 ~~fields pursuant to s. 327.4105.~~

207 Section 2. For the purpose of incorporating the amendment  
208 made by this act to section 327.4108, Florida Statutes, in a  
209 reference thereto, paragraph (z) of subsection (1) of section  
210 327.73, Florida Statutes, is reenacted to read:

211 327.73 Noncriminal infractions.—

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

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

- 216 1. For a first offense, up to a maximum of \$50.
- 217 2. For a second offense, up to a maximum of \$100.
- 218 3. For a third or subsequent offense, up to a maximum of  
219 \$250.

220

221 Any person cited for a violation of any provision of this  
222 subsection shall be deemed to be charged with a noncriminal  
223 infraction, shall be cited for such an infraction, and shall be  
224 cited to appear before the county court. The civil penalty for  
225 any such infraction is \$50, except as otherwise provided in this  
226 section. Any person who fails to appear or otherwise properly  
227 respond to a uniform boating citation shall, in addition to the  
228 charge relating to the violation of the boating laws of this  
229 state, be charged with the offense of failing to respond to such  
230 citation and, upon conviction, be guilty of a misdemeanor of the  
231 second degree, punishable as provided in s. 775.082 or s.  
232 775.083. A written warning to this effect shall be provided at



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233 the time such uniform boating citation is issued.

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