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1
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 certain counties to establish anchoring
6 limitation areas that meet certain requirements;
7 defining the term "navigable-in-fact waterways";
8 specifying size requirements for the anchoring
9 limitation areas; requiring the anchoring limitation
10 areas to be marked with signs and buoys that meet
11 certain requirements; prohibiting vessels from
12 anchoring in such areas for longer than a specified
13 time; requiring counties to provide notice to the Fish
14 and Wildlife Conservation Commission within a
15 specified timeframe before introducing an ordinance to
16 establish an anchoring limitation area; requiring the
17 commission to publish notice of the proposed ordinance
18 on its website and distribute an e-mail notice;
19 designating Monroe County as an anchoring limitation
20 area; providing requirements for such area; requiring
21 the commission to adopt rules; providing
22 applicability; prohibiting Monroe County from
23 establishing an anchoring limitation area until the
24 county meets certain requirements; requiring the
25 commission to designate a specified area as a priority
26 for the investigation and removal of derelict vessels
27 until certain conditions are met; requiring owners or
28 operators in certain anchoring limitation areas to be
29 allowed to provide specified proof of compliance with

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30 certain provisions; authorizing law enforcement
31 officers or agencies to issue citations for violations
32 under certain circumstances; providing that vessels
33 with a specified number of repeat offenses within a
34 specified timeframe shall be declared public nuisances
35 and subject to certain provisions; removing
36 applicability provisions relating to the commission's
37 recommendations; reenacting s. 327.73(1)(z), F.S.,
38 relating to noncriminal infractions, to incorporate
39 the amendment made to s. 327.4108, F.S., in a
40 reference thereto; providing an effective date.

41
42 Be It Enacted by the Legislature of the State of Florida:

43
44 Section 1. Section 327.4108, Florida Statutes, is amended
45 to read:

46 327.4108 Anchoring of vessels in anchoring limitation
47 areas.—

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

53 1.(a) The section of Middle River lying between Northeast
54 21st Court and the Intracoastal Waterway in Broward County.

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

56 3.(c) The sections of Biscayne Bay in Miami-Dade County
57 lying between:

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

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

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

61 (b)(2) To promote the public's use and enjoyment of the
62 designated waterway, except as provided in subsections (4) ~~(3)~~
63 and (5) ~~(4)~~, a person may not anchor a vessel at any time during
64 the period between one-half hour after sunset and one-half hour
65 before sunrise in an anchoring limitation area designated under
66 this subsection.

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

85 1. Be less than 100 acres in size. For purposes of this
86 subsection, the calculated size of the anchoring limitation area
87 does not include any portion of the marked channel of the

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88 Florida Intracoastal Waterway contiguous to the anchoring
89 limitation area;

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

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

92 a. Signs that provide reasonable notice to boaters
93 identifying the duration of time beyond which anchoring is
94 limited and identifying the county ordinance by which the
95 anchoring limitation area was created.

96 b. Buoys. The county that has created an anchoring
97 limitation area shall install and maintain buoys marking the
98 boundary of the anchoring limitation area.

99
100 The signs and buoys must be permitted and installed in
101 accordance with ss. 327.40 and 327.41 and commission rule.

102 (b) Except as provided in subsections (4) and (5), a person
103 may not anchor a vessel for more than 45 consecutive days in any
104 6-month period in an anchoring limitation area established
105 pursuant to this subsection.

106 (c) A county proposing establishment of an anchoring
107 limitation area in accordance with this subsection shall provide
108 notice to the commission at least 30 days before introducing an
109 ordinance to establish the anchoring limitation area. The
110 commission shall publish notice of the proposed ordinance on its
111 website and distribute such notice through the commission's
112 Boating and Waterways Section e-mail distribution list for
113 ordinances.

114 (3) (a) Monroe County is designated as an anchoring
115 limitation area within which a vessel on waters of the state may
116 be anchored in the same location only for a maximum of 90 days.

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117 The commission shall adopt rules to implement this subsection.

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

120 (c) Notwithstanding the commission rules adopted pursuant
121 to this subsection, this section is not effective for Monroe
122 County until the county approves, permits, and opens new
123 moorings for public use, including at least 250 moorings within
124 1 mile of the Key West Bight City Dock and at least 50 moorings
125 within the Key West Garrison Bight Mooring Field. Until such
126 time, the commission shall designate the area within 1 mile of
127 the Key West Bight City Dock as a priority for the investigation
128 and removal of derelict vessels.

129 (4)~~(3)~~ Notwithstanding subsections (1), ~~subsection (2), and~~
130 (3), a person may anchor a vessel in an anchoring limitation
131 area:

132 (a) If the vessel suffers a mechanical failure that poses
133 an unreasonable risk of harm to the vessel or the persons
134 onboard unless the vessel anchors. The vessel may anchor for 3
135 business days or until the vessel is repaired, whichever occurs
136 first.

137 (b) If imminent or existing weather conditions in the
138 vicinity of the vessel pose an unreasonable risk of harm to the
139 vessel or the persons onboard unless the vessel anchors. The
140 vessel may anchor until weather conditions no longer pose such
141 risk. During a hurricane or tropical storm, weather conditions
142 are deemed to no longer pose an unreasonable risk of harm when
143 the hurricane or tropical storm warning affecting the area has
144 expired.

145 (c) During events described in s. 327.48 or other special

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146 events, including, but not limited to, public music
147 performances, local government waterfront activities, or
148 fireworks displays. A vessel may anchor for the lesser of the
149 duration of the special event or 3 days.

150 (5)~~(4)~~ This section does not apply to:

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

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

154 (c) Vessels actively engaged in commercial fishing.

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

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

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

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

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

173 2. If a vessel owner or operator fails or refuses to
174 provide proof that the vessel has not exceeded the limitations

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175 described in subsection (2), the law enforcement officer or
176 agency may issue a citation for a violation of this section.

177 (c)~~(b)~~ A law enforcement officer or agency may remove a
178 vessel from an anchoring limitation area and impound the vessel
179 for up to 48 hours, or cause such removal and impoundment, if
180 the vessel operator, after being issued a citation for a
181 violation of this section:

182 1. Anchors the vessel in violation of this section within
183 12 hours after being issued the citation; or

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

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

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

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

199 1. Be licensed in accordance with United States Coast Guard
200 regulations, as applicable.

201 2. Obtain and carry a current policy issued by a licensed
202 insurance carrier in this state to insure against any accident,
203 loss, injury, property damage, or other casualty caused by or

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204 resulting from the contractor's actions.

205 3. Be properly equipped to perform such services.

206 (g)~~(e)~~ In addition to the civil penalty imposed under s.
207 327.73(1)(z), the operator of a vessel that is removed and
208 impounded pursuant to paragraph (c) ~~(b)~~ must pay all removal and
209 storage fees before the vessel is released. A vessel removed
210 pursuant to paragraph (c) ~~(b)~~ may not be impounded for longer
211 than 48 hours.

212 (7)~~(6)~~ A violation of this section is punishable as
213 provided in s. 327.73(1)(z).

214 ~~(7) This section shall remain in effect notwithstanding the~~
215 ~~Legislature's adoption of the commission's recommendations for~~
216 ~~the regulation of mooring vessels outside of public mooring~~
217 ~~fields pursuant to s. 327.4105.~~

218 Section 2. For the purpose of incorporating the amendment
219 made by this act to section 327.4108, Florida Statutes, in a
220 reference thereto, paragraph (z) of subsection (1) of section
221 327.73, Florida Statutes, is reenacted to read:

222 327.73 Noncriminal infractions.—

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

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

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

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

229 3. For a third or subsequent offense, up to a maximum of
230 \$250.

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232 Any person cited for a violation of any provision of this

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233 subsection shall be deemed to be charged with a noncriminal
234 infraction, shall be cited for such an infraction, and shall be
235 cited to appear before the county court. The civil penalty for
236 any such infraction is \$50, except as otherwise provided in this
237 section. Any person who fails to appear or otherwise properly
238 respond to a uniform boating citation shall, in addition to the
239 charge relating to the violation of the boating laws of this
240 state, be charged with the offense of failing to respond to such
241 citation and, upon conviction, be guilty of a misdemeanor of the
242 second degree, punishable as provided in s. 775.082 or s.
243 775.083. A written warning to this effect shall be provided at
244 the time such uniform boating citation is issued.

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