

<b>Tab 1</b>		<b>SB 1260 by Simpson; (Similar to CS/H 1051) Recreational Boating Zones</b>						
854416	D	S	RCS	EP, Simpson	Delete everything after	02/17	02:51 PM	

The Florida Senate  
**COMMITTEE MEETING EXPANDED AGENDA**  
 ENVIRONMENTAL PRESERVATION AND CONSERVATION  
 Senator Dean, Chair  
 Senator Simpson, Vice Chair

**MEETING DATE:** Wednesday, February 17, 2016  
**TIME:** 1:30—3:30 p.m.  
**PLACE:** Mallory Horne Committee Room, 37 Senate Office Building

**MEMBERS:** Senator Dean, Chair; Senator Simpson, Vice Chair; Senators Altman, Evers, Hays, Hutson, Simmons, Smith, and Soto

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	<b>SB 1260</b> Simpson (Similar CS/H 1051)	Recreational Boating Zones; prohibiting overnight anchoring or mooring of vessels in specified recreational boating zones, etc.  EP     02/17/2016 Fav/CS ATD FP	Fav/CS Yeas 5 Nays 4

Other Related Meeting Documents

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/17/16  
Meeting Date

1260  
Bill Number (if applicable)

854416  
Amendment Barcode (if applicable)

Topic Amendment 854416

Name DAVID CHILDS

Job Title Counsel

Address 119 S Monroe St Suite 300  
Street

Phone 850 222-7500

Tallahassee FL 32303  
City State Zip

Email DAVID@HOSLAW.COM

Speaking:  For  Against  Information  
*Amendment*

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing National Marine Manufacturers Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-17-16

Meeting Date

~~1266~~  
1266

Bill Number (if applicable)

884416

Amendment Barcode (if applicable)

Topic Anchoring

Name Missy Timmins

Job Title \_\_\_\_\_

Address 2910 Kerry Forest Parkway

Phone 668-8000

111 FL 32309  
City State Zip

Email missy@timminsconsulting.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Marine Industries Association FL

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

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2/17/16

Meeting Date

SB1260

Bill Number (if applicable)

Topic Recreational Boating Zones

Amendment Barcode (if applicable)

Name Phillip Werndli

Job Title Member, Concern Cruisers Committee

Address 1028 Apollo Beach Blvd #3

Phone 850 519 8398

Street

Apollo Beach

FL

33572

City

State

Zip

Email pwerndli@gmail.com

Email

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Seven Seas Cruising Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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APPEARANCE RECORD

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2/17/16

Meeting Date

SB 1260

Bill Number (if applicable)

Topic Recreational Boating Zones

Amendment Barcode (if applicable)

Name Kingsley Ross

Job Title

Address 234 Harbour Pt Dr

Street

Phone 850-300-1378

Crawfordville, FL 32327

City

State

Zip

Email KingsleyRR@hotmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing self

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
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2-17-2016

Meeting Date

SB 1260

Bill Number (if applicable)

Topic RECREATIONAL BOATING ZONES

Amendment Barcode (if applicable)

Name JOHN SCOTT

Job Title COL, USAF (RET) MEMBER AGLCA

Address 1265 Lockhart Ave  
Street

Phone 802 310 7409

The Villages, FL 32162  
City State Zip

Email john@KATOLIE.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing AMERICA GREAT LOOP CRUISING ASSOC.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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2/17/16  
Meeting Date

SB 1260  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name BONNIE BASHAM

Job Title \_\_\_\_\_

Address 133 OAK ST, #15  
Street  
Tallahassee, FL 32301  
City State Zip

Phone 850 933 7277

Email Capital.Ideas@ATT.net

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing BOAT US

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-17-16  
Meeting Date

5E1260  
Bill Number (if applicable)

Topic RECREATIONAL BOATING ZONES

Amendment Barcode (if applicable)

Name BILL TURNER

Job Title RETIRED - member 55L A, WORK

Address 932 MAGNOLIA SHORES DR. Phone 620 506 8800

Street

NICEVILLE, FL 32578

City

State

Zip

Email BILLTURNER@AOL.COM

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing SELF

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

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2/17/16

Meeting Date

1260

Bill Number (if applicable)

~~854416~~

Amendment Barcode (if applicable)

Topic Anchovy

Name Kelly Mallette

Job Title \_\_\_\_\_

Address 104 West Jefferson Street

Street

Tallahassee, FL 32301

City

State

Zip

Phone (850) 224-3427

Email kelly@rlbookpa.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing City of Ft. Lauderdale and

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

17 Feb 2016  
Meeting Date

SB 1290  
Bill Number (if applicable)

854416  
Amendment Barcode (if applicable)

Topic \_\_\_\_\_

Name Gerard M. Ward

Job Title \_\_\_\_\_

Address 3930 N. Ocean Drive  
Street

Phone 561-863-1215

Riviera Beach  
City State Zip

Email wardgm@gate.net

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing SELF

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/17/16 Meeting Date

1260 Bill Number (if applicable)

Topic Recreational Boating Zones

Amendment Barcode (if applicable)

Name Sue Ross

Job Title

Address 234 Harbour Pt DL

Phone 850 300 1379

Street

Crawfordville, FL 32327

City

State

Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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# CourtSmart Tag Report

Room: LL 37

Case No.:

Type:

Caption: Senate Environmental Preservation and Conservation Committee

Judge:

Started: 2/17/2016 1:35:45 PM

Ends: 2/17/2016 2:34:58 PM

Length: 00:59:14

1:35:44 PM	Order
1:35:49 PM	Roll Call
1:35:51 PM	Quorum Present
1:36:27 PM	SB 1260
1:36:51 PM	Senator Simpson
1:37:00 PM	Amendment
1:37:01 PM	Strike all 854416
1:37:08 PM	Senator Simpson
1:38:01 PM	Questions
1:38:04 PM	Appearance
1:38:14 PM	Missy Timmins - Marine Industries Assoc. of FL (For)
1:38:23 PM	David Childs - Nat'l Marine Manufacturers Assoc. (For)
1:38:33 PM	Debate
1:38:35 PM	Senator Hays
1:40:41 PM	Senator Smith
1:42:57 PM	Close
1:43:01 PM	Senator Simpson
1:43:36 PM	Voice Vote
1:43:42 PM	Roll Call
1:43:51 PM	Amendment Adopted
1:44:08 PM	Back on the Bill as Amended
1:44:13 PM	Questions
1:44:39 PM	Senator Soto
1:44:57 PM	Senator Simpson
1:46:24 PM	Senator Hutson
1:46:48 PM	Senator Simpson
1:47:35 PM	Chair Dean
1:48:08 PM	Senator Simmons
1:49:09 PM	Staff
1:49:37 PM	Senator Evers
1:49:50 PM	Senator Simpson
1:50:21 PM	Senator Evers
1:50:36 PM	Senator Dean
1:51:43 PM	Senator Simpson
1:52:08 PM	Senator Simmons
1:53:14 PM	Appearance
1:53:25 PM	Phillip Werndli - Seven Seas Cruising Assoc. (Against)
1:58:22 PM	Kingsley Ross - Crawfordville, FL (Against)
2:01:05 PM	John Scott - America Great Loop Cruising Assoc. (Against)
2:02:46 PM	Bonnie Basham - Boat US (Against)
2:05:20 PM	Senator Evers
2:06:15 PM	Senator Hutson
2:06:52 PM	Bonnie Basham
2:07:00 PM	Senator Hutson
2:07:11 PM	Bonnie Basham
2:08:20 PM	Bill Turney - Niceville, FL (Against)
2:09:20 PM	Kelly Mallette - City of Ft. Lauderdale/ Concerned Property Owns Assoc. (For)
2:13:21 PM	Senator Hays
2:14:44 PM	Kelly Mallette
2:15:35 PM	Senator Simmons
2:16:13 PM	Kelly Mallette
2:16:40 PM	Garald M. Ward (Against)

**2:18:52 PM** Sue Ross - Crawfordville (Against)  
**2:19:10 PM** Debate  
**2:19:13 PM** Senator Hutson  
**2:20:28 PM** Senator Evers  
**2:25:47 PM** Senator Smith  
**2:28:40 PM** Senator Dean  
**2:29:18 PM** Senator Simmons  
**2:30:22 PM** Senator Hays  
**2:32:48 PM** Close  
**2:32:57 PM** Senator Simpson  
**2:33:24 PM** Roll Call CS/SB 1260  
**2:34:24 PM** CS/SB 1260 Reported Favorably  
**2:34:50 PM** Meeting Adjourned

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Environmental Preservation and Conservation

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BILL: CS/SB 1260

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Simpson

SUBJECT: Anchoring Limitation Areas

DATE: February 18, 2016

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Istler	Rogers	EP	<b>Fav/CS</b>
2.			ATD	
3.			FP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1260 establishes anchoring limitation areas in sections of Broward and Miami-Dade Counties. The bill prohibits a person from anchoring a vessel at any time between the hours from one-half hour after sunset to one-half hour before sunrise in any such anchoring limitation area. The bill authorizes vessels under certain circumstances to anchor overnight in an anchoring limitation area and provides an exemption for certain vessels.

The effective date of the bill is July 1, 2016.

**II. Present Situation:**

Article X, section 11 of the Florida Constitution authorizes the private use of portions of sovereign lands, but only if not contrary to the public interest.<sup>1</sup> The term “sovereignty submerged lands” means “those lands including but not limited to, tidal lands, islands, sand bars, shallow banks, and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally-influenced waters, to which the State of Florida acquired title on March 3, 1845, by virtue of statehood, and which have not been heretofore conveyed or alienated.”<sup>2</sup>

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<sup>1</sup> Fla. Admin. Code R 18-21.003(51), defines the term “public interest” as “demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of a proposed action, and which would clearly exceed all demonstrable environmental, social, and economic costs of the proposed action.”

<sup>2</sup> Fla. Admin. Code R. 18-21.003(61); the Submerged Lands Act, 43 U.S.C. §1301 and 1311(a) (confirmed state ownership).

Riparian rights are those incident to land bordering upon navigable waters.<sup>3</sup> Under Florida law, riparian rights specifically include the right to an unobstructed view and the right of ingress to and egress from the water.<sup>4</sup> The Court in *Hayes v. Bowman* held that this right only extends over an area “as near practicable in the direction” of the Channel so as to distribute equitably the submerged lands between the upland and the Channel.<sup>5</sup> A riparian owner’s rights are concurrent with that of the public, not superior to that of the public.<sup>6</sup> A riparian owner’s right to use the navigable waters abutting his or her property may not obstruct or unreasonably impede lawful navigation by others.<sup>7</sup> The public has the right to use navigable waters for navigation or commerce.<sup>8</sup> Anchoring is considered to be incidental to the right of navigation.<sup>9</sup>

The anchoring of vessels has created conflicts in some areas of the state related to the use and enjoyment of the waters of this state for many years. These issues include, but are not limited to:

- The locations where anchored vessels accumulate;
- Unattended vessels;
- Anchored vessels that are dragging anchor or not showing proper lighting;
- Vessels that are not maintained properly or become derelict;
- Interpretation of state laws leading to inconsistent regulation of anchoring on state waters and confusion among the boating community; and
- Questions about local governmental authority to regulate anchoring.<sup>10</sup>

Balancing the interests of the state, local governments, homeowners, and boaters is complex.<sup>11</sup> The policy debate concerning the scope of state and local government regulation of the anchoring of vessels has been ongoing for decades.<sup>12</sup>

### **State Regulation of the Anchoring or Mooring of Vessels**

The Governor and the Cabinet, sitting as the Board of Trustees of Internal Improvement (board), is responsible for administering, controlling, and managing sovereignty submerged lands.<sup>13</sup> Section 253.03, F.S., authorizes the board to adopt rules governing all uses of sovereignty submerged lands by vessels, floating homes, or any other watercraft. However, the board is limited to adopting regulations for anchoring, mooring, or otherwise attaching to the bottom; the establishment of anchorages; and the discharge of sewage, pump-out requirements, and facilities associated with anchorages.<sup>14</sup> Such regulations are prohibited from interfering with commerce or the transitory operation of vessels through navigable water but are required to control the use of

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<sup>3</sup> Section 253.141, F.S.

<sup>4</sup> *Hayes v. Bowman*, 91 So.2d 795 (Fla. 1975).

<sup>5</sup> *Id.*

<sup>6</sup> *Harbor Beach Surf Club, Inc. v. Water Taxi of Ft. Lauderdale, Inc.*, 711 So.2d 1230 (Fla. 4th DCA 1998).

<sup>7</sup> *Id.*

<sup>8</sup> *Brannon v. Boldt*, 958 So.2d 367, 372 (Fla. 2d DCA 2007).

<sup>9</sup> Ankersen, Hamann, & Flagg, *Anchoring Away: Government Regulation and the Rights of Navigation in Florida*, pg. 2 (Rev. May 2012) available at <http://nsgl.gso.uri.edu/flsgp/flsgpt12001.pdf>.

<sup>10</sup> FWC, *Anchoring and Mooring Pilot Program, Report of Findings and Recommendations*, pg. 3 (Dec. 31, 2013) available at <http://myfwc.com/media/2704721/FindingsRecommendations.pdf>.

<sup>11</sup> *Id.* at 1.

<sup>12</sup> *Id.*

<sup>13</sup> Section 253.03, F.S.

<sup>14</sup> Section 253.03(7)(b), F.S.

sovereignty submerged lands as a place of business or residence.<sup>15</sup> The board has adopted rules requiring a permit for the construction of mooring pilings or docks, but the board has not adopted rules regulating the anchoring of vessels.<sup>16</sup>

Section 327.44, F.S., prohibits a person from anchoring a vessel, except in case of emergency, in a manner which unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel. Anchoring under bridges or in or adjacent to heavily traveled channels constitutes interference, if unreasonable under the prevailing circumstances.<sup>17</sup> Interference with navigation is a noncriminal infraction, punishable by a civil penalty of \$50.<sup>18</sup>

### **Local Regulation of the Anchoring or Mooring of Vessels**

Local governments by general permit are authorized to construct, operate, and maintain public mooring fields, each for up to 100 vessels.<sup>19</sup> Mooring fields are required to be located where navigational access already exists between the mooring field and the nearest customarily used access channel or navigable waters for which the mooring field is designed to serve.<sup>20</sup> Each mooring field must be associated with a land-based support facility that provides amenities and conveniences, such as parking, bathrooms, showers, and laundry facilities.<sup>21</sup> Major boat repairs and maintenance, fueling activities other than from the land-based support facility, and boat hull scrapping and painting are not authorized within such mooring fields.<sup>22</sup>

Local governments are authorized to enact and enforce ordinances that prohibit or restrict the mooring or anchoring of floating structures or live-aboard vessels within their jurisdiction and vessels that are within the marked boundaries of permitted mooring fields.<sup>23</sup> However, local governments are prohibited from enacting, continuing in effect, or enforcing any ordinance or local regulation that regulates the anchoring of vessels other than live-aboard vessels outside the marked boundaries of permitted mooring fields.<sup>24</sup>

### ***Anchoring and Mooring Pilot Program***

In an effort to seek resolution of the policy debate over how much authority should appropriately be granted to local governments with respect to vessels anchoring within their jurisdictions, the

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<sup>15</sup> *Id.*

<sup>16</sup> See Fla. Admin. Code Ch. 18-21 for rules regulating the construction of structures used for mooring or accessing vessels.

<sup>17</sup> Section 327.44(2), F.S.

<sup>18</sup> Section 327.73, F.S.

<sup>19</sup> Section 373.118, F.S.; Fla. Admin. Code R. 62-330.420.

<sup>20</sup> Fla. Admin. Code R. 62-330.420.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> Section 327.60(3), F.S.; s. 327.02, F.S., defines the term “floating structure” to mean a floating entity, with or without accommodations built thereon, which is not primarily used as a means of transportation on water but which serves purposes or provides services typically associated with a structure or other improvement to real property. The term includes, but is not limited to, an entity used as a residence, place of business or office with public access; a hotel or motel; a restaurant or lounge; a clubhouse; a meeting facility; a storage or parking facility; or a mining platform, dredge, dragline, or similar facility or entity represented as such.

<sup>24</sup> Section 327.60(2)(f), F.S.; s. 327.02, F.S., defines the term “live-aboard vessel” to mean “a vessel used solely as a residence and not for navigation; a vessel represented as a place of business or a professional or other commercial enterprise; or a vessel for which a declaration of domicile has been filed.” The definition expressly excludes commercial fishing boats.

Legislature in 2009, enacted s. 327.4105, F.S., to create the Anchoring and Mooring Pilot Program.<sup>25</sup> The goal of the program is to explore potential options authorizing local governments to regulate the anchoring and mooring of non-live-aboard vessels outside the marked boundaries of public mooring fields.<sup>26</sup> The pilot program is directed by the Fish and Wildlife Conservation Commission (FWC) in cooperation with the Department of Environmental Preservation (DEP).<sup>27</sup>

The following local governments, as participants of the pilot program, are authorized to regulate anchoring and mooring outside the marked boundaries of permitted mooring fields:

- The City of St. Augustine.
- The City of St. Petersburg.
- The City of Sarasota.
- Monroe County in partnership with the cities of Marathon and Key West.
- Martin County in partnership with the City of Stuart.<sup>28</sup>

The pilot program was set to expire on July 1, 2014. However, the program was extended, on recommendation of the FWC, to provide more time to fully evaluate each pilot program location.<sup>29</sup> The pilot program and the local government ordinances developed under the program are set to expire July 1, 2017, unless reenacted by the Legislature.<sup>30</sup>

### ***FWC Public Survey***

The FWC engaged the public through a series of open public meetings to explore potential options for regulating the anchoring of non-live-aboard vessels outside the marked boundaries of public mooring fields.<sup>31</sup> The following concepts were contemplated in relation to the granting of limited authority to local governments to regulate anchoring within their jurisdiction:

- A setback distance where the anchoring of vessels would be prohibited in the vicinity of public boating access infrastructure, such as boat ramps, hoists, mooring fields and marinas.
  - Sixty-six percent of respondents somewhat or strongly agreed that this concept was appropriate and 44 percent of respondents identified 150 feet as the most appropriate setback distance.
- A setback distance where the anchoring of vessels overnight in close proximity to waterfront residential property would be prohibited.
  - Fifty-one percent of respondents somewhat or strongly agreed that this concept was appropriate and 32 percent of respondents identified 150 feet as the most appropriate setback distance.
- The storing of vessels on the water in deteriorating condition would be prohibited.
  - Eighty-six percent of respondents somewhat or strongly agreed that this concept was appropriate.

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<sup>25</sup> FWC, *Anchoring and Mooring Pilot Program, Report of Findings and Recommendations*, pg. 1 (Dec. 31, 2013) available at <http://myfwc.com/media/2704721/FindingsRecommendations.pdf>.

<sup>26</sup> Chapter 2009-86, s. 48, Laws of Fla.

<sup>27</sup> Section 327.4105, F.S.

<sup>28</sup> FWC, *Anchoring and Mooring Pilot Program, Report of Findings and Recommendations*, pg. 1 (Dec. 31, 2013) available at <http://myfwc.com/media/2704721/FindingsRecommendations.pdf>.

<sup>29</sup> Chapter 2014-136, s. 2, F.S.

<sup>30</sup> Section 327.4105(6), F.S.

<sup>31</sup> FWC, *Stakeholder Survey-Anchoring, Executive Summary*, pg. 1 (Jan. 29, 2015) available at <http://myfwc.com/media/2981012/Anchoring-Survey-Executive-Summary.pdf>.

- The timeframe for storing vessels on the water would be limited unless relocated a specified distance away.
  - Sixty-six percent of respondents somewhat or strongly agreed that this concept was appropriate and 31 percent of the respondents identified 60 days as most appropriate.
- If authority was granted to local governments to regulate anchoring in their jurisdiction, an allowance could be created for other anchoring regulations where need is demonstrated.
  - Forty-eight percent of respondents somewhat or strongly agreed that this concept was appropriate.
- If authority was granted to local governments to regulate anchoring in their jurisdiction, the creation of an online, interactive map to help boat operators know which local areas were covered under local anchoring restrictions.
  - Eighty-eight percent of respondents somewhat or strongly agreed that this concept was appropriate.<sup>32</sup>

### III. Effect of Proposed Changes:

**Section 1** creates s. 327.4108, F.S., to designate the following densely populated urban areas, which have narrow state waterways, residential docking facilities, and significant recreational boating traffic and which are located in counties with populations exceeding 1.5 million residents as anchoring limitation areas:

- The section of Middle River lying between Northeast 21st Court and the Intracoastal Waterway in Broward County.
- Sunset Lake in Miami-Dade County.
- The sections of Biscayne Bay in Miami-Dade County lying between:
  - Rivo Alto Island and Di Lido Island.
  - San Marino Island and San Marco Island.
  - San Marco Island and Biscayne Island.

The bill prohibits a person from anchoring 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 to promote the public's use and enjoyment of the designated waterways.

The bill authorizes vessels to anchor overnight in an anchoring limitation area under the following circumstances:

- If a vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or persons onboard the vessel unless the vessel anchors.
  - A vessel may anchor for three business days or until the vessel is repaired, whichever occurs first.
- If imminent or existing weather conditions in the vicinity of the vessel pose an unreasonable risk of harm to the vessel or the persons onboard the vessel unless the vessel anchors.
  - A vessel may anchor until weather conditions no longer pose such risk. During a hurricane or a tropical storm, weather conditions are deemed to no longer pose an unreasonable risk of harm when the hurricane or tropical storm warning affecting the area has expired.

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<sup>32</sup> *Id.*

- During events described in s. 327.48, F.S., relating to regattas, races, marine parades, tournaments, and exhibitions, or other special events including, but not limited to, public music performances, local government waterfront activities, or fireworks displays.
  - A vessel may anchor for the lesser of the duration of the special event or for three days.

The bill exempts the following vessels:

- Vessels owned or operated by a governmental entity for law enforcement, firefighting, military, or rescue purposes.
- Construction or dredging vessels on an active job site.
- Vessels actively engaged in commercial fishing.
- Vessels engaged in recreational fishing, if the persons onboard are actively tending hook and line fishing gear or nets.

The bill authorizes a law enforcement officer or agency to remove a vessel from an anchoring limitation area and impound the vessel for up to 48 hours, or cause such removal and impoundment, if the vessel operator, after being issued a citation for a violation:

- Anchors the vessel unlawfully in an anchoring limitation area within 12 hours after being issued the citation; or
- Refuses to leave the anchoring limitation area after being directed to do so by a law enforcement officer or agency.

The bill provides a limitation on liability to a law enforcement officer or agency for any damage to the vessel, other than damage resulting from gross negligence or willful misconduct, resulting from the removal or impoundment of the vessel.

For the purposes of such removal or impoundment, the bill defines the term “law enforcement officer or agency” to mean the following officers or agencies:

- The Division of Law Enforcement of the Fish and Wildlife Conservation Commission and its officers;
- The sheriffs of the various counties and their deputies;
- The municipal police officers; and
- Any other law enforcement officer described in s. 943.10, F.S.<sup>33</sup>

The bill provides the following requirements for contractors performing removal or impoundment services at the direction of a law enforcement officer or agency:

- Be licensed in accordance with United States Coast Guard regulations, as applicable;
- Obtain and carry a current policy issued by a licensed insurance carrier in this state to insure against any accident, loss, injury, property damage, or other casualty caused by or resulting from the contractor’s actions; and
- Be properly equipped to perform such services.

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<sup>33</sup> Section 943.10, F.S., defines the term “law enforcement officer” as “any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state....”

The bill requires the operator of a vessel that is removed and impounded, in addition to a civil penalty, to pay all removal and storage fees before the vessel may be released.

**Section 2** amends s. 327.70, F.S., to authorize a violation of s. 327.4108, F.S., relating to the anchoring of vessels in anchoring limitation areas, to be enforced by a uniform boating citation issued to the operator of a vessel unlawfully anchored in an anchoring limitation area.

**Section 3** amends s. 327.73, F.S., to provide the following civil penalties for the unlawful anchoring of vessels in an anchoring limitation area:

- For a first offense, a maximum fine of \$50.
- For a second offense, a maximum fine of \$100.
- For a third or subsequent offense, a maximum fine of \$250.

The bill takes effect July 1, 2016.

#### IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article III, section 10 of the Florida Constitution prohibits the Legislature from enacting any special law unless notice is first published or a referendum is conducted. A special law, or “local law” does not apply with geographic uniformity across the state; it operates only upon designated persons or discrete regions, and bears no reasonable relationship to differences in population or other legitimate criteria.<sup>34</sup> On the other hand, general laws of local application do not require published notice or referendum.<sup>35</sup> A general law of location application applies to a distinct region or set of subdivisions within the state and its classification scheme is based on population or some other reasonable characteristic which distinguishes one locality from another.<sup>36</sup> If particular conditions exist in only a portion of the state, enactments with reference thereto nonetheless may be general laws.<sup>37</sup> If a law utilizes a classification that is geographical in its term but its purpose is one of

<sup>34</sup> *Lawnwood Medical Center, Inc. v. Seeger*, 990 So.2d 503 (Fla. 2008).

<sup>35</sup> *Dept. of Business Regulation v. Classic Mile, Inc.*, 541 So.2d 1155 (Fla. 1989).

<sup>36</sup> *City of Miami Beach v. Frankel*, 363 So.2d 55 (Fla. 1978).

<sup>37</sup> *Schrader v. Florida Keys Aqueduct Authority*, 840 So.2d 1050, 1055 (Fla. 2003).

statewide import and impact, and the classification is reasonably related to the law's purpose, it is a valid general law.<sup>38</sup>

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The FWC or other law enforcement agencies that monitor anchoring in an anchoring limitation area may experience an indeterminate positive fiscal impact resulting from the issuance of boating citations for violations relating to the unlawful anchoring of vessels in an anchoring limitation area. Additionally, the FWC or other law enforcement agencies may experience increased costs as a result of enforcing anchoring in these areas.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 327.4108 of the Florida Statutes.

This bill substantially amends the following sections of the Florida Statutes: 327.70 and 327.73.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Environmental Preservation and Conservation on February 17, 2016:**

The CS:

- Designates anchoring limitation areas, rather than recreational boating zones, and provides a limitation to areas that are in densely populated urban areas, which have narrow state waterways, residential docking facilities, and significant boating traffic and are located in counties with populations exceeding 1.5 million residents.
- Removes Crab Island in Okaloosa County as a designated area.

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<sup>38</sup> *Id.* at 1056.

- Authorizes vessels under certain circumstances to anchor overnight in anchoring limitation areas.
- Exempts certain vessels.
- Authorizes law enforcement officers or agencies to remove or cause the removal of vessels from an anchoring limitation area and impound such vessels for up to 48 hours under certain circumstances.
- Provides a limitation on liability for law enforcement officers or agencies that remove or impound a vessel.
- Provides requirements for contractors performing removal or impoundment services.
- Requires a vessel operator to pay all removal and storage fees for removed or impounded vessels.
- Amends s. 327.70, F.S., to authorize violations of s. 327.4108, F.S. to be enforced by a uniform boating citation.
- Revises the penalty for violations to a tiered structure for repeat offenders.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/17/2016	.	
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The Committee on Environmental Preservation and Conservation  
(Simpson) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 327.4108, Florida Statutes, is created  
to read:

327.4108 Anchoring or mooring of vessels in anchoring  
limitation areas.—

(1) The following densely populated urban areas, which have  
narrow state waterways, residential docking facilities, and



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11 significant recreational boating traffic and are located in  
12 counties with populations exceeding 1.5 million residents, are  
13 designated as anchoring limitation areas:

14 (a) The section of Middle River lying between Northeast  
15 21st Court and the Intracoastal Waterway in Broward County.

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

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

19 1. Rivo Alto Island and Di Lido Island.

20 2. San Marino Island and San Marco Island.

21 3. San Marco Island and Biscayne Island.

22 (2) To promote the public's use and enjoyment of the  
23 designated waterway, except as provided in subsections (3) and  
24 (4), a person may not anchor a vessel at any time during the  
25 period between one-half hour after sunset and one-half hour  
26 before sunrise in an anchorage limitation area.

27 (3) Notwithstanding subsection (2), a person may anchor a  
28 vessel in an anchorage limitation area:

29 (a) If the vessel suffers a mechanical failure that poses  
30 an unreasonable risk of harm to the vessel or the persons  
31 onboard unless the vessel anchors. The vessel may anchor for 3  
32 business days or until the vessel is repaired, whichever occurs  
33 first.

34 (b) If imminent or existing weather conditions in the  
35 vicinity of the vessel pose an unreasonable risk of harm to the  
36 vessel or the persons onboard unless the vessel anchors. The  
37 vessel may anchor until weather conditions no longer pose such  
38 risk. During a hurricane or a tropical storm, weather conditions  
39 are deemed to no longer pose an unreasonable risk of harm when



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40 the hurricane or tropical storm warning affecting the area has  
41 expired.

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

47 (4) This section does not apply to:

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

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

51 (c) Vessels actively engaged in commercial fishing.

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

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

57 (b) A law enforcement officer or agency may remove a vessel  
58 from an anchorage limitation area and impound the vessel for up  
59 to 48 hours, or cause such removal and impoundment, if the  
60 vessel operator, after being issued a citation for a violation  
61 of this section:

62 1. Anchors the vessel in violation of this section within  
63 12 hours after being issued the citation; or

64 2. Refuses to leave the anchorage limitation area after  
65 being directed to do so by a law enforcement officer or agency.

66 (c) A law enforcement officer or agency acting under this  
67 subsection to remove or impound a vessel, or to cause such  
68 removal or impoundment, shall be held harmless for any damage to



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

71 (d) A contractor performing removal or impoundment services  
72 at the direction of a law enforcement officer or agency pursuant  
73 to this subsection must:

74 1. Be licensed in accordance with United States Coast Guard  
75 regulations, as applicable.

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

80 3. Be properly equipped to perform such services.

81 (e) In addition to the civil penalty imposed under s.  
82 327.73(1)(y), the operator of a vessel that is removed and  
83 impounded pursuant to paragraph (b) must pay all removal and  
84 storage fees before the vessel is released. A vessel removed  
85 pursuant to paragraph (b) may not be impounded for longer than  
86 48 hours.

87 (6) A violation of this section is punishable as provided  
88 in s. 327.73(1)(y).

89 Section 2. Paragraph (c) is added to subsection (2) of  
90 section 327.70, Florida Statutes, to read:

91 327.70 Enforcement of this chapter and chapter 328.—

92 (2)

93 (c) A noncriminal violation of s. 327.4108 may be enforced  
94 by a uniform boating citation issued to the operator of a vessel  
95 unlawfully anchored in an anchoring limitation area.

96 Section 3. Paragraph (y) is added to subsection (1) of  
97 section 327.73, Florida Statutes, to read:



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98 327.73 Noncriminal infractions.-

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

101 (y) Section 327.4108, relating to the anchoring of vessels  
102 in anchoring limitation areas, for which the penalty is:

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

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

105 3. For a third or subsequent offense, up to a maximum of  
106 \$250.

107

108 Any person cited for a violation of any provision of this  
109 subsection shall be deemed to be charged with a noncriminal  
110 infraction, shall be cited for such an infraction, and shall be  
111 cited to appear before the county court. The civil penalty for  
112 any such infraction is \$50, except as otherwise provided in this  
113 section. Any person who fails to appear or otherwise properly  
114 respond to a uniform boating citation shall, in addition to the  
115 charge relating to the violation of the boating laws of this  
116 state, be charged with the offense of failing to respond to such  
117 citation and, upon conviction, be guilty of a misdemeanor of the  
118 second degree, punishable as provided in s. 775.082 or s.  
119 775.083. A written warning to this effect shall be provided at  
120 the time such uniform boating citation is issued.

121 Section 4. This act shall take effect July 1, 2016.

122

123 ===== T I T L E A M E N D M E N T =====

124 And the title is amended as follows:

125 Delete everything before the enacting clause  
126 and insert:



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127                   A bill to be entitled  
128           An act relating to anchoring limitation areas;  
129           creating s. 327.4108, F.S.; prohibiting overnight  
130           anchoring or mooring of vessels in specified anchoring  
131           limitation areas; providing exceptions; providing for  
132           the removal and impounding of vessels under certain  
133           circumstances; providing penalties; amending s.  
134           327.70, F.S.; providing for violations to be enforced  
135           by the issuance of a uniform boating citation;  
136           amending s. 327.73, F.S.; providing penalties;  
137           providing an effective date.

By Senator Simpson

18-01671-16

20161260\_\_

1                   A bill to be entitled  
2           An act relating to recreational boating zones;  
3           creating s. 327.4107, F.S.; prohibiting overnight  
4           anchoring or mooring of vessels in specified  
5           recreational boating zones; amending s. 327.73, F.S.;  
6           providing penalties; providing an effective date.

7  
8 Be It Enacted by the Legislature of the State of Florida:

9  
10           Section 1. Section 327.4107, Florida Statutes, is created  
11 to read:

12           327.4107 Anchoring or mooring of vessels in recreational  
13 boating zones.-

14           (1) A person may not anchor or moor a vessel at any time  
15 between the hours from one-half hour after sunset to one-half  
16 hour before sunrise in the following recreational boating zones:

17           (a) The section of Middle River lying between Northeast  
18 21st Court and the Intracoastal Waterway in Broward County.

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

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

22           1. Rivo Alto Island and Di Lido Island.

23           2. San Marino Island and San Marco Island.

24           3. San Marco Island and Biscayne Island.

25           (d) Crab Island in Choctawhatchee Bay at the East Pass in  
26 Okaloosa County.

27           (2) A violation of this section is punishable as provided  
28 in s. 327.73(1)(y).

29           Section 2. Paragraph (y) is added to subsection (1) of  
30 section 327.73, Florida Statutes, to read:

31           327.73 Noncriminal infractions.-

32           (1) Violations of the following provisions of the vessel

18-01671-16

20161260\_\_

33 laws of this state are noncriminal infractions:

34 (y) Section 327.4107, relating to the anchoring or mooring  
35 of vessels in recreational boating zones.

36

37 Any person cited for a violation of any provision of this  
38 subsection shall be deemed to be charged with a noncriminal  
39 infraction, shall be cited for such an infraction, and shall be  
40 cited to appear before the county court. The civil penalty for  
41 any such infraction is \$50, except as otherwise provided in this  
42 section. Any person who fails to appear or otherwise properly  
43 respond to a uniform boating citation shall, in addition to the  
44 charge relating to the violation of the boating laws of this  
45 state, be charged with the offense of failing to respond to such  
46 citation and, upon conviction, be guilty of a misdemeanor of the  
47 second degree, punishable as provided in s. 775.082 or s.  
48 775.083. A written warning to this effect shall be provided at  
49 the time such uniform boating citation is issued.

50 Section 3. This act shall take effect July 1, 2016.