

**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 Environment and Natural Resources

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BILL: SB 1666

INTRODUCER: Senator Flores

SUBJECT: Anchoring and Mooring of Vessels Outside of Public Mooring Fields

DATE: March 25, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Rogers	EN	<b>Pre-meeting</b>
2.			CA	
3.			RC	

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**I. Summary:**

SB 1666 prohibits the owner, operator, or person in charge of a vessel from storing the vessel at anchor in one location on the public waters of the state, outside of public mooring fields, for more than 60 consecutive days. A vessel stored longer than the 60-day limit must be:

- Relocated by the owner, operator, or person to another location at least 10 miles from the current location;
- Relocated by the owner, operator, or person to a permitted mooring, marina slip, or private dock; or
- Removed from the water.

The bill establishes that anchoring and mooring outside public mooring fields is a noncriminal infraction and provides that a violation may be enforced by the issuance of a uniform boating citation to the owner, operator, or person in charge of the vessel. The bill provides that each day a vessel is unlawfully anchored or moored beyond the 60-day limit is a separate offense and imposes penalties, as follows:

- \$50 for a first offense;
- \$100 for a second offense; and
- \$250 for a third offense.

**II. Present Situation:**

Anchoring or mooring refers to a boater's practice of seeking and using a safe harbor on the public waterway system for an undefined duration. Anchoring is accomplished using an anchor carried on the vessel.<sup>1</sup> Mooring is accomplished through the utilization of moorings permanently affixed to the bottom of the water body. Anchorages are areas that boaters regularly use for

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<sup>1</sup> Section 327.02, F.S., defines the term "vessel" to include every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

anchoring or mooring, whether designated or managed for that purpose or not. Mooring fields are areas designated and used for a system of properly spaced moorings.<sup>2</sup>

The anchoring of vessels has created conflicts in some areas of the state related to the use and enjoyment of the waters 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;
- Vessels that 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>3</sup>

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

The Board of Trustees of the Internal Improvement Trust Fund (BOT) is authorized to adopt rules governing all uses of sovereignty submerged lands including rules for anchoring, mooring, or otherwise attaching to the bottom, the establishment of anchorages, the discharge of sewage, pump-out requirements, and facilities associated with anchorages.<sup>4</sup> Such rules must control the use of sovereignty submerged lands as a place of business or residence but are prohibited from interfering with commerce or the transitory operation of vessels through navigable water.<sup>5</sup> The BOT has not adopted rules relating to the anchoring of vessels on the waters of the state.

State law prohibits a person from anchoring a vessel, except in cases of emergency, in a manner that unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel.<sup>6</sup> Anchoring under bridges or in, or adjacent to, heavily traveled channels constitutes interference, if unreasonable under the prevailing circumstances.<sup>7</sup> Interference with navigation is a noncriminal infraction, punishable by a civil penalty of \$50.<sup>8</sup>

The Fish and Wildlife Conservation Commission (FWC) and other law enforcement agencies are authorized to relocate or remove a vessel that unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel. FWC or any law enforcement agency that relocates or removes a vessel under these circumstances is to be held harmless for all damages to the vessel resulting from the relocation or removal unless the damage results from gross

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<sup>2</sup> Ankersen, Hamann, & Flagg, *Anchoring Away: Government Regulation and the Rights of Navigation in Florida*, 2 (Rev. May 2012), available at <https://www.law.ufl.edu/pdf/academics/centers-clinics/clinics/conservation/resources/anchaway.pdf> (last visited Mar. 21, 2019).

<sup>3</sup> Fish and Wildlife Conservation Commission (FWC), *Anchoring and Mooring Pilot Program Report of Findings and Recommendations*, 6 (Dec. 31, 2016), available at <http://www.boatus.com/gov/assets/pdf/fwc-2016-anchoring-and-mooring-report.pdf> (last visited Mar. 21, 2019).

<sup>4</sup> Section 253.03(7), F.S.

<sup>5</sup> *Id.*; see Fla. Admin. Code ch. 18-21.

<sup>6</sup> Section 327.44(2), F.S.

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

<sup>8</sup> Section 327.73, F.S.

negligence or willful misconduct.<sup>9</sup> The costs to relocate or remove a vessel under these circumstances are recoverable against the vessel owner.<sup>10</sup>

State law prohibits, with specified exceptions, the anchoring of a vessel between one-half hour after sunset and one-half hour before sunrise in the following designated 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; or
  - San Marco Island and Biscayne Island.<sup>11</sup>

State law also prohibits the owner or operator of a vessel or floating structure from anchoring or mooring a vessel such that the nearest approach of the vessel or floating structure is:

- Within 150 feet of any marina, boat ramp, boatyard, or other vessel launching or loading facility;
- Within 300 feet of a superyacht repair facility; or
- Within 100 feet outward from the marked boundary of a public mooring field or a lesser distance if approved by the commission upon request of a local government within which the mooring field is located.<sup>12</sup>

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

Local governments are authorized by general permit to construct, operate, and maintain public mooring fields, each for up to 100 vessels.<sup>13</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 which the mooring field is designed to serve. 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. Major boat repairs and maintenance, fueling activities other than from the land-based support facility, and boat hull scraping and painting are not authorized within mooring fields.<sup>14</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 jurisdictions and vessels that are within the marked boundaries of permitted mooring fields.<sup>15</sup> However, local governments are prohibited from enacting, continuing in effect, or enforcing any ordinance or

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<sup>9</sup> Section 327.44(3), F.S.

<sup>10</sup> Section 327.44(5), F.S.

<sup>11</sup> Section 327.4108, F.S.

<sup>12</sup> Section 327.4109, F.S.

<sup>13</sup> Section 373.118, F.S.; Fla. Admin. Code R. 62-330.420(1).

<sup>14</sup> Fla. Admin. Code R. 62-330.420.

<sup>15</sup> Section 327.60(3), F.S., *see also* s. 327.02(14) and (22) for definitions of the terms “floating structure” and “live-aboard vessel.”

local regulation that regulates the anchoring of vessels, other than live-aboard vessels, outside the marked boundaries of permitted mooring fields.<sup>16</sup>

### **Penalties for Boating Infractions**

Section 327.73, F.S., provides for non-criminal violations relating to vessel laws. An owner or operator of a vessel or floating structure who violates the law by anchoring in an anchoring limitation area or anchoring or mooring in a prohibited area is subject to a uniform boating citation and penalties.<sup>17</sup> The penalties are:

- For a first offense, up to a maximum of \$50;
- For a second offense, up to a maximum of \$100; and
- For a third offense, up to a maximum of \$250.

In addition to civil penalties, the section provides that a person who fails to appear or otherwise properly respond to a uniform boating citation will be charged with a second-degree misdemeanor, which is punishable by a maximum fine of \$500 and no more than 60 days imprisonment.<sup>18</sup>

### **III. Effect of Proposed Changes:**

The bill defines the term “store” or “stored” to mean that a vessel is not under the supervision and control of a person capable of operating and maintaining it or promptly moving it from one location to another.

The bill prohibits the owner, operator, or person in charge of a vessel from storing the vessel at anchor in one location on the public waters of the state, outside of public mooring fields, for more than 60 consecutive days. A vessel stored longer than the 60-day limit must be:

- Relocated by the owner, operator, or person to another location at least 10 miles from the current location;
- Relocated by the owner, operator, or person to a permitted mooring, marina slip, or private dock; or
- Removed from the water.

The bill adds prohibited anchoring and mooring outside public mooring fields to the noncriminal infractions in chapter 327 and provides that a violation may be enforced by the issuance of a uniform boating citation to the owner, operator, or person in charge of the vessel. The bill provides that each day a vessel is unlawfully anchored or moored beyond the 60-day limit is a separate offense and imposes penalties, as follows:

- \$50 for a first offense;
- \$100 for a second offense; and
- \$250 for a third offense.

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<sup>16</sup> Section 327.60(2)(f), F.S.

<sup>17</sup> Section 327.73(z) and (bb), F.S.

<sup>18</sup> Sections 775.082 and 775.083, F.S.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

The bill may have an indeterminate fiscal impact on state government. While the Fish and Wildlife Conservation Commission may experience a positive fiscal impact resulting from the issuance of boating citations, it may also experience increased costs due to increased enforcement efforts.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

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

The bill creates section 327.4106 of the Florida Statutes.

**IX. Additional Information:**

A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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