

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

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

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 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. ~~(c)~~ 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 under this subsection.

51 (2) (a) Notwithstanding s. 327.60(2)(f), a county may  
52 establish, in accordance with this subsection, an anchoring  
53 limitation area within densely populated urban areas, which have  
54 narrow state waterways, residential docking facilities, and  
55 significant recreational boating traffic. The aggregate total of  
56 anchoring limitation areas in a county may not exceed 10 percent  
57 of the county's navigable waterways. Each anchoring limitation  
58 area must meet all of the following requirements:

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

64 2. Not include any mooring fields; and

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

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

73 b. Buoys. The county that has created an anchoring  
74 limitation area shall install and maintain buoys marking the  
75 boundary of the anchoring limitation area.

76           (b) Except as provided in subsections (3) and (4), a  
 77 person may not anchor a vessel for more than 30 consecutive days  
 78 in any 6-month period in an anchoring limitation area under this  
 79 subsection.

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

82           (a) If the vessel suffers a mechanical failure that poses  
 83 an unreasonable risk of harm to the vessel or the persons  
 84 onboard unless the vessel anchors. The vessel may anchor for 3  
 85 business days or until the vessel is repaired, whichever occurs  
 86 first.

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

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

100           (4) This section does not apply to:

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

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

105 (c) Vessels actively engaged in commercial fishing.

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

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

111 (b)1. For a vessel in an anchoring limitation area under  
112 subsection (2), upon an inquiry by a law enforcement officer or  
113 agency, a vessel owner or operator must be given an opportunity  
114 to provide proof that the vessel has not exceeded the  
115 limitations described in subsection (2). Such proof may include  
116 any of the following:

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

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

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

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

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

133 | 1. Anchors the vessel in violation of this section within  
 134 | 12 hours after being issued the citation; or

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

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

142 | (e)~~(e)~~ A law enforcement officer or agency acting under  
 143 | this subsection to remove or impound a vessel, or to cause such  
 144 | removal or impoundment, shall be held harmless for any damage to  
 145 | the vessel resulting from such removal or impoundment unless the  
 146 | damage results from gross negligence or willful misconduct.

147 | (f)~~(d)~~ A contractor performing removal or impoundment  
 148 | services at the direction of a law enforcement officer or agency  
 149 | pursuant to this subsection must:

150           1. Be licensed in accordance with United States Coast  
151 Guard regulations, as applicable.

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

156           3. Be properly equipped to perform such services.

157           ~~(g)(e)~~ In addition to the civil penalty imposed under s.  
158 327.73(1)(z), the operator of a vessel that is removed and  
159 impounded pursuant to paragraph ~~(c)(b)~~ must pay all removal and  
160 storage fees before the vessel is released. A vessel removed  
161 pursuant to paragraph ~~(c)(b)~~ may not be impounded for longer  
162 than 48 hours.

163           (6) The commission shall initiate rulemaking by July 1,  
164 2021, to provide criteria and procedures for reviewing  
165 applications to establish an anchoring limitation area under  
166 subsection (2) and procedures for public notice and  
167 participation pursuant to this subsection. The rulemaking must  
168 include, at a minimum, all of the following:

169           (a) Notice to the public. The Boating and Waterways  
170 Section of the Fish and Wildlife Conservation Commission shall  
171 provide notice of completed applications received, public  
172 meetings or hearings concerning applications, and denial or  
173 approval of applications on the section's web page and to all  
174 parties listed in the Boating and Waterways Section's public

175 distribution list for ordinances, which any member of the public  
 176 may join.

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

184 (7)(6) A violation of this section is punishable as  
 185 provided in s. 327.73(1)(z).

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

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

194 327.73 Noncriminal infractions.—

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

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

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

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

201           3. For a third or subsequent offense, up to a maximum of  
202 \$250.

203  
204 Any person cited for a violation of any provision of this  
205 subsection shall be deemed to be charged with a noncriminal  
206 infraction, shall be cited for such an infraction, and shall be  
207 cited to appear before the county court. The civil penalty for  
208 any such infraction is \$50, except as otherwise provided in this  
209 section. Any person who fails to appear or otherwise properly  
210 respond to a uniform boating citation shall, in addition to the  
211 charge relating to the violation of the boating laws of this  
212 state, be charged with the offense of failing to respond to such  
213 citation and, upon conviction, be guilty of a misdemeanor of the  
214 second degree, punishable as provided in s. 775.082 or s.  
215 775.083. A written warning to this effect shall be provided at  
216 the time such uniform boating citation is issued.

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