

CHAPTER 2021-192

Committee Substitute for Committee Substitute for Committee Substitute for Senate Bill No. 1946

An act relating to anchoring limitation areas; amending s. 327.4108, F.S.; providing that certain areas are grandfathered-in anchoring limitation areas; authorizing certain counties to establish anchoring limitation areas that meet certain requirements; defining the term “navigable-in-fact waterways”; specifying size requirements for the anchoring limitation areas; requiring the anchoring limitation areas to be marked with signs and buoys that meet certain requirements; prohibiting vessels from anchoring in such areas for longer than a specified time; requiring counties to provide notice to the Fish and Wildlife Conservation Commission within a specified timeframe before introducing an ordinance to establish an anchoring limitation area; requiring the commission to publish notice of the proposed ordinance on its website and distribute an e-mail notice; designating Monroe County as an anchoring limitation area; providing requirements for such area; requiring the commission to adopt rules; providing applicability; prohibiting Monroe County from establishing an anchoring limitation area until the county meets certain requirements; requiring the commission to designate a specified area as a priority for the investigation and removal of derelict vessels until certain conditions are met; requiring owners or operators in certain anchoring limitation areas to be allowed to provide specified proof of compliance with certain provisions; authorizing law enforcement officers or agencies to issue citations for violations under certain circumstances; providing that vessels with a specified number of repeat offenses within a specified timeframe shall be declared public nuisances and subject to certain provisions; removing applicability provisions relating to the commission’s recommendations; reenacting s. 327.73(1)(z), F.S., relating to noncriminal infractions, to incorporate the amendment made to s. 327.4108, F.S., in a reference thereto; providing an effective date.

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 and shall be considered to be grandfathered-in 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.(e) 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 (4) (3) and (5) (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 designated under this subsection.

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

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

2. Not include any mooring field or marina; and

3. Be clearly marked with all of the following:

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

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

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

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

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

(3)(a) Monroe County is designated as an anchoring limitation area within which a vessel on waters of the state may be anchored in the same location only for a maximum of 90 days. The commission shall adopt rules to implement this subsection.

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

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

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

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

(b) 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 unless the vessel anchors. The vessel may anchor until weather conditions no longer pose such risk. During a hurricane or 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.

(c) During events described in s. 327.48 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 3 days.

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

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

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

(c) Vessels actively engaged in commercial fishing.

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

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

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

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

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

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

~~(c)(b)~~ A law enforcement officer or agency may 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 of this section:

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

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

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

~~(e)(c)~~ A law enforcement officer or agency acting under this subsection to remove or impound a vessel, or to cause such removal or impoundment, shall be held harmless for any damage to the vessel resulting from such removal

or impoundment unless the damage results from gross negligence or willful misconduct.

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

1. Be licensed in accordance with United States Coast Guard regulations, as applicable.
2. 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.
3. Be properly equipped to perform such services.

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

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

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

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

327.73 Noncriminal infractions.—

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

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

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

Any person cited for a violation of any provision of this subsection shall be deemed to be charged with a noncriminal infraction, shall be cited for such an infraction, and shall be cited to appear before the county court. The civil penalty for any such infraction is \$50, except as otherwise provided in this

section. Any person who fails to appear or otherwise properly respond to a uniform boating citation shall, in addition to the charge relating to the violation of the boating laws of this state, be charged with the offense of failing to respond to such citation and, upon conviction, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A written warning to this effect shall be provided at the time such uniform boating citation is issued.

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

Approved by the Governor June 29, 2021.

Filed in Office Secretary of State June 29, 2021.