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CS/CS/HB 1051

2016 Legislature

1
2 An act relating to anchoring limitation areas;
3 creating s. 327.4108, F.S.; prohibiting overnight
4 anchoring of vessels in specified anchoring limitation
5 areas; providing exceptions; providing applicability;
6 authorizing specified law enforcement officers and
7 agencies to remove and impound vessels or cause
8 vessels to be removed or impounded under certain
9 conditions; providing indemnification for such law
10 enforcement officers and agencies in certain
11 circumstances; providing requirements for contractors
12 performing such removal or impoundment services;
13 providing that certain vessel operators are required
14 to pay removal and storage fees and are subject to
15 specified penalties; providing for expiration;
16 amending s. 327.70, F.S.; providing for issuance of
17 uniform boating citations; amending s. 327.73, F.S.;
18 providing penalties relating to the anchoring of
19 vessels in anchoring limitation areas; providing an
20 effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

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

26 327.4108 Anchoring of vessels in anchoring limitation

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27 areas.—

28 (1) The following densely populated urban areas, which
 29 have narrow state waterways, residential docking facilities, and
 30 significant recreational boating traffic, are designated as
 31 anchoring limitation areas:

32 (a) The section of Middle River lying between Northeast
 33 21st Court and the Intracoastal Waterway in Broward County.

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

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

37 1. Rivo Alto Island and Di Lido Island.

38 2. San Marino Island and San Marco Island.

39 3. San Marco Island and Biscayne Island.

40 (2) To promote the public's use and enjoyment of the
 41 designated waterway, except as provided in subsections (3) and
 42 (4), a person may not anchor a vessel at any time during the
 43 period between one-half hour after sunset and one-half hour
 44 before sunrise in an anchoring limitation area.

45 (3) Notwithstanding subsection (2), a person may anchor a
 46 vessel in an anchoring limitation area:

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

52 (b) If imminent or existing weather conditions in the

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53 vicinity of the vessel pose an unreasonable risk of harm to the
 54 vessel or the persons onboard unless the vessel anchors. The
 55 vessel may anchor until weather conditions no longer pose such
 56 risk. During a hurricane or tropical storm, weather conditions
 57 are deemed to no longer pose an unreasonable risk of harm when
 58 the hurricane or tropical storm warning affecting the area has
 59 expired.

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

65 (4) This section does not apply to:

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

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

70 (c) Vessels actively engaged in commercial fishing.

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

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

76 (b) A law enforcement officer or agency may remove a
 77 vessel from an anchoring limitation area and impound the vessel
 78 for up to 48 hours, or cause such removal and impoundment, if

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79 the vessel operator, after being issued a citation for a
 80 violation of this section:

81 1. Anchors the vessel in violation of this section within
 82 12 hours after being issued the citation; or

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

85 (c) A law enforcement officer or agency acting under this
 86 subsection to remove or impound a vessel, or to cause such
 87 removal or impoundment, shall be held harmless for any damage to
 88 the vessel resulting from such removal or impoundment unless the
 89 damage results from gross negligence or willful misconduct.

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

93 1. Be licensed in accordance with United States Coast
 94 Guard regulations, as applicable.

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

99 3. Be properly equipped to perform such services.

100 (e) In addition to the civil penalty imposed under s.
 101 327.73(1)(y), the operator of a vessel that is removed and
 102 impounded pursuant to paragraph (b) must pay all removal and
 103 storage fees before the vessel is released. A vessel removed
 104 pursuant to paragraph (b) may not be impounded for longer than

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105 48 hours.

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

108 (7) This section expires upon the Legislature's adoption
 109 of the commission's recommendations for the regulation of
 110 mooring vessels outside of public mooring fields pursuant to s.
 111 327.4105.

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

114 327.70 Enforcement of this chapter and chapter 328.-

115 (2)

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

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

121 327.73 Noncriminal infractions.-

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

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

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

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

128 3. For a third or subsequent offense, up to a maximum of
 129 \$250.

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131 Any person cited for a violation of any provision of this
132 subsection shall be deemed to be charged with a noncriminal
133 infraction, shall be cited for such an infraction, and shall be
134 cited to appear before the county court. The civil penalty for
135 any such infraction is \$50, except as otherwise provided in this
136 section. Any person who fails to appear or otherwise properly
137 respond to a uniform boating citation shall, in addition to the
138 charge relating to the violation of the boating laws of this
139 state, be charged with the offense of failing to respond to such
140 citation and, upon conviction, be guilty of a misdemeanor of the
141 second degree, punishable as provided in s. 775.082 or s.
142 775.083. A written warning to this effect shall be provided at
143 the time such uniform boating citation is issued.

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