



Agriculture, Conservation & Resiliency Subcommittee

**December 12, 2023
3:30 pm
Sumner Hall**

Meeting Packet

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Agriculture, Conservation & Resiliency Subcommittee

Start Date and Time: Tuesday, December 12, 2023 03:30 pm

End Date and Time: Tuesday, December 12, 2023 06:00 pm

Location: Sumner Hall (404 HOB)

Duration: 2.50 hrs

Consideration of the following bill(s):

HB 87 Taking of Bears by Shoaf

HB 321 Release of Balloons by Chaney

HB 437 Anchoring Limitation Areas by Porras

To submit an electronic appearance form, and for information about attending or testifying at a committee meeting, please see the "Visiting the House" tab at www.myfloridahouse.gov.

NOTICE FINALIZED on 12/05/2023 4:01PM by Jones.Missy

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 87 Taking of Bears
SPONSOR(S): Shoaf and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 632

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture, Conservation & Resiliency Subcommittee		Gawin	Moore
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) Infrastructure Strategies Committee			

SUMMARY ANALYSIS

Article IV, section 9, of the Florida Constitution establishes the Florida Fish and Wildlife Conservation Commission (FWC) and grants FWC the regulatory and executive powers of the state concerning wild animal life, freshwater aquatic life, and marine life.

The Florida black bear (*Ursus americanus floridanus*) is the only bear that lives in Florida. The Florida black bear historically roamed throughout the state, but now lives in several fragmented areas. Due to loss of habitat and unregulated hunting, the population was reduced to an estimated 300-500 bears in the 1970s. As a result of the population decline, FWC classified the Florida black bear as a threatened species in 1974. After more than 35 years of strict statewide protection and management, FWC conducted an evaluation and determined that the Florida black bear was no longer at high risk of extinction. As a result, the Florida black bear was removed from the state threatened species list in 2012.

As the populations of both humans and bears have expanded in the state, there has been an increase in human-bear conflicts, particularly in residential areas, where bears often search for food. Between 2009 and 2018, FWC euthanized an average of 38 bears annually due to public safety risks. FWC found that a majority of the mortalities were associated with bears seeking out unsecured garbage or other human-provided food sources. In 2022, FWC received 5,907 calls relating to bears, of which 36 percent were considered core complaints. Bears in close proximity to humans create a range of issues from perceived threats (e.g., seeing a bear on the edge of the forest) to potential threats to public safety (i.e., food conditioned and habituated bears).

The bill creates the "Self Defense Act," (act) which specifies that the use of lethal force to take a bear without a permit or authorization is justified if a person feels threatened and believes that using such force is necessary to protect himself or herself on his or her private property.

The bill specifies that the act does not apply if a person lures a bear with food or attractants for an illegal purpose, including training dogs to hunt bears, or provokes a bear to incite attack.

The bill specifies that a person who takes a bear pursuant to the act is not subject to any administrative, civil, or criminal penalties; must notify FWC within 24 hours after the taking; and may not possess, sell, or dispose of the taken bear or its parts. A bear taken under the act must be disposed of by FWC.

The bill does not appear to have a fiscal impact on the state.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Fish and Wildlife Conservation Commission

Article IV, section 9, of the Florida Constitution establishes the Florida Fish and Wildlife Conservation Commission (FWC) and grants FWC the regulatory and executive powers of the state concerning wild animal life, freshwater aquatic life, and marine life.¹

As a result of FWC's constitutional authority, the Legislature is constitutionally prohibited from adopting statutes in conflict with rules adopted by FWC to execute such authority.² However, the Constitution specifies that all licensing fees for taking wild animal life, freshwater aquatic life, and marine life as well as the penalties for violating FWC regulations must be prescribed by the Legislature.³ In addition, the Legislature must provide for FWC's exercise of executive powers in the areas of planning, budgeting, personnel management, and purchasing.⁴ The Legislature may also enact laws to aid FWC that are not inconsistent with its constitutionally-conferred powers, except for special laws or general laws of local application relating to hunting and fishing.⁵

Florida Black Bear

The Florida black bear (*Ursus americanus floridanus*) is the only bear that lives in Florida.⁶ The Florida black bear historically roamed throughout the state, but now lives in several fragmented areas.⁷ Due to loss of habitat and unregulated hunting, the population was reduced to an estimated 300-500 bears in the 1970s.⁸ As a result of the population decline, FWC classified the Florida black bear as a threatened species in 1974.⁹ After more than 35 years of strict statewide protection and management, FWC conducted an evaluation and determined that the Florida black bear was no longer at high risk of extinction. As a result, the Florida black bear was removed from the state threatened species list in 2012.¹⁰

Population

Today, the Florida black bear population is comprised of seven distinct sub-populations within the state, including Apalachicola, Eglin, Osceola, Ocala/St. Johns, Chassahowitzka, Highland/Glades, and Big Cypress.¹¹ During 2014 and 2015, FWC conducted a statewide population assessment for Florida black bears and found that bear populations increased substantially in certain sub-populations and increased by approximately 53 percent statewide.¹² Although the Florida black bear population is growing and its occupied range is expanding, the populations still only occur in seven relatively disconnected sub-groups across the state.¹³

For management purposes, each sub-population is separated into a bear management unit (BMU). A BMU is a geographic location bounded by county or state borders containing one of the seven Florida

¹ Art. IV, s. 9, Fla. Const.

² Art. IV, s. 9, Fla. Const.

³ Art. IV, s. 9, Fla. Const.

⁴ *Id.*

⁵ *Id.*

⁶ FWC, *Florida Black Bear: FAQs*, <https://myfwc.com/wildlifehabitats/wildlife/bear/living/faqs/> (last visited Nov. 28, 2023).

⁷ FWC, *Black Bears Appearance*, <http://myfwc.com/wildlifehabitats/managed/bear/facts/appearance/> (last visited Nov. 28, 2023).

⁸ FWC, *Black Bear Research*, <http://myfwc.com/research/wildlife/terrestrial-mammals/bear/research/> (last visited Nov. 28, 2023).

⁹ *Id.*

¹⁰ FWC, *Bear Management Plan* (2019), 25, available at <https://myfwc.com/media/21923/2019-florida-black-bear-management-plan.pdf> (last visited Nov. 28, 2023).

¹¹ *Id.* at xix.

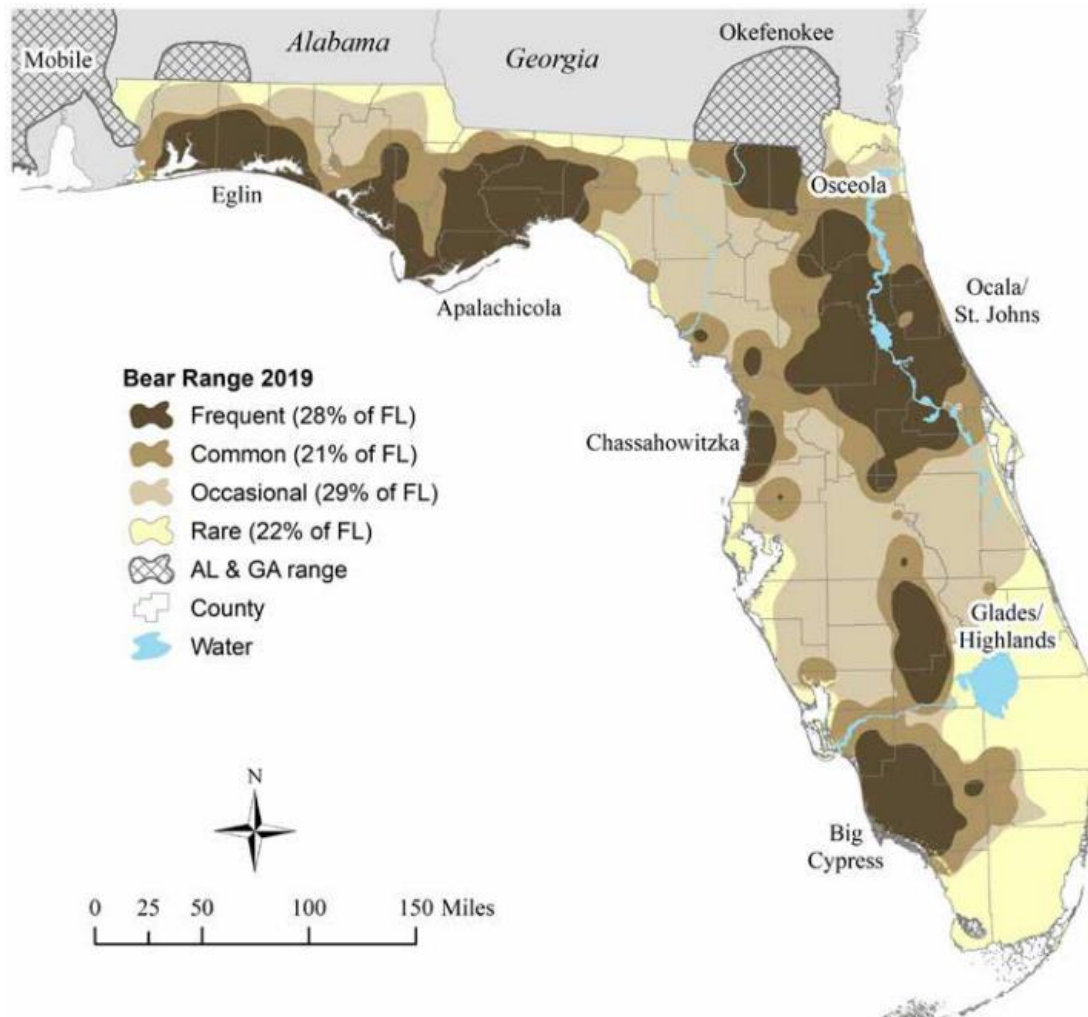
¹² FWC, *Florida Black Bear: Numbers*, <https://myfwc.com/wildlifehabitats/wildlife/bear/numbers/> (last visited Nov. 28, 2023).

¹³ FWC, *Florida Black Bear: Black Bear Research*, <https://myfwc.com/research/wildlife/terrestrial-mammals/bear/research/> (last visited Nov. 28, 2023).

black bear sub-populations.¹⁴ The goal of establishing BMUs is to provide a defined area within which FWC can have a community-focused effort to effectively manage and conserve Florida black bears.¹⁵ FWC manages each BMU to meet specific goals related to bear sub-population size, potential habitat, human-bear conflicts, and potential threats, such as vehicle-related mortality.¹⁶

Habitat

Florida black bears range from the northeast to the southwest of the state.¹⁷ Updated ranges are important for managing and predicting human-bear conflicts, determining potential areas to provide linkage between sub-populations, employing conservation plans, implementing public outreach, and monitoring listing criteria.¹⁸ Some of the sub-populations are small and are impacted by habitat fragmentation, which restricts movement and genetic interchange among sub-populations.¹⁹



The Florida black bear is adaptable and inhabits a variety of forested habitats, but thrives in habitats that provide an annual supply of seasonally available foods, secluded areas for denning, and some degree of protection from humans.²⁰ The optimal bear habitat in Florida is a thoroughly interspersed mixture of flatwoods, swamps, scrub oak ridges, bayheads, and hammock habitats.²¹ Self-sustaining

¹⁴ FWC, *Florida Black Bear: BMU*, <http://myfwc.com/wildlifehabitats/managed/bear/bmu/> (last visited Nov. 28, 2023).

¹⁵ *Id.*

¹⁶ FWC, *Bear Management Plan* (2019), 28-29, available at <https://myfwc.com/media/21923/2019-florida-black-bear-management-plan.pdf> (last visited Nov. 28, 2023).

¹⁷ FWC, *Florida Black Bear: Distribution Map*, <https://myfwc.com/wildlifehabitats/wildlife/bear/living/distribution-map/> (last visited Nov. 28, 2023).

¹⁸ *Id.*

¹⁹ FWC, *Bear Management Plan* (2019), 45-46, available at <https://myfwc.com/media/21923/2019-florida-black-bear-management-plan.pdf> (last visited Nov. 28, 2023).

²⁰ *Id.* at 8.

²¹ *Id.*

and secure sub-populations of bears are typically found within large contiguous forested tracts that contain understories of mast²² or berry-producing shrubs or trees.²³

Human-bear Conflicts

As the populations of both humans and bears have expanded in the state, there has been an increase in human-bear conflicts, particularly in residential areas, where bears often search for food.²⁴ Between 2009 and 2018, FWC euthanized an average of 38 bears annually due to public safety risks.²⁵ FWC found that a majority of the mortalities were associated with bears seeking out unsecured garbage or other human-provided food sources.²⁶ In 2022, FWC received 5,907 calls relating to bears,²⁷ of which 36 percent were considered core complaints.²⁸

Bears in close proximity to humans create a range of issues from perceived threats (e.g., seeing a bear on the edge of the forest) to potential threats to public safety (i.e., food conditioned and habituated bears). FWC has attempted to capture and relocate bears; however, this practice was ineffective as there are few remote places where relocated bears will not encounter humans and that are not already occupied by other bears.²⁹ Additionally, FWC found that 70 percent of relocated bears do not remain in the area to which they are moved, and over half repeat conflict behavior even after they are moved.³⁰ As a result, FWC's policies place an emphasis on the public's personal responsibility for eliminating attractants and thereby reducing or eliminating conflicts with bears.³¹

In 2015, FWC adopted a statewide resolution highlighting the importance of securing attractants.³² That same year, the Legislature increased the penalties for feeding wildlife, with enhanced penalties for repeatedly feeding bears and certain other wildlife.³³ Specifically, the law provided penalties for:

- Feeding wildlife with food or garbage;
- Attracting or enticing wildlife with food or garbage; or
- Allowing the placement of food or garbage in a manner that attracts or entices wildlife.³⁴

FWC also updated its bear feeding rule to allow law enforcement officers to issue notifications to people who have been in contact with FWC regarding securing their garbage or other attractants and have failed to do so.³⁵ The notification serves as a formal reminder that the person's actions could be in violation of the law.³⁶

Taking of Bears

²² The term "mast" is a general term for edible fruit when eaten by wildlife. Hard mast includes acorn, hickory, pecan, and other nuts while soft mast includes fleshy berries such as palmetto berries, blueberries, and grapes. FWC, *Bear Management Plan* (2019), xvii, available at <https://myfwc.com/media/21923/2019-florida-black-bear-management-plan.pdf> (last visited Nov. 28, 2023).

²³ *Id.* at 8.

²⁴ *Id.* at 29.

²⁵ FWC, *Florida Black Bear Management Plan*, 21 (2019), available at <https://myfwc.com/media/21923/2019-draft-bear-management-plan.pdf> (last visited Nov. 28, 2023).

²⁶ *Id.*

²⁷ FWC, *Bears by the Numbers*, <https://myfwc.com/wildlifehabitats/wildlife/bear/numbers/> (last visited Nov. 28, 2023).

²⁸ "Core complaint" refers to a subset of all the bear-related calls received by FWC that are classified as complaints. Core complaints consist of the following categories: apiary, in building/tent/vehicle, in crops, in feed, in feeder, in garbage, in open garage, in screened porch/patio, property damage, threatened/attacked/killed animal, and threatened/attacked/killed human. Categories of calls related to human-bear interactions that are not classified as core complaints include: animal threatened/attacked/killed bear, dead bear, general question, harvest/hunt, human threatened bear, illegal activity, in area, in hog trap, in tree, in unscreened porch/patio, in yard, misidentified, research, sick/injured bear, unintentionally approached human, and other. FWC, *Florida Black Bear Management Plan*, xvi (2019), available at <https://myfwc.com/media/21923/2019-draft-bear-management-plan.pdf> (last visited Nov. 28, 2023).

²⁹ *Id.* at 55.

³⁰ *Id.*

³¹ *Id.*

³² See FWC, *Resolution*, available at <https://myfwc.com/media/7072/11b-blackbearresolution.pdf> (last visited Nov. 28, 2023).

³³ Chapter 2015-161, s. 12, Laws of Fla.

³⁴ Section 379.412, F.S.

³⁵ Chapter 68A-4.001, F.A.C.

³⁶ Dr. Thomas Eason, Director, Division of Habitat and Species Conservation, FWC, *Black Bear Program Update*, slide 23 (April 2017), available at <https://myfwc.com/media/18754/3b-bearplanupdate.pdf> (last visited Nov. 28, 2023).

Through its constitutional authority to regulate wildlife, FWC has adopted rules to regulate the taking of bears. Generally, under FWC rule, a person is prohibited from taking, possessing, injuring, shooting, or selling a black bear or its parts or attempting to engage in such conduct.³⁷ However, such conduct is authorized in certain limited circumstances when FWC issues a permit granting such authorization. Pursuant to its rules, FWC may issue a permit authorizing the intentional take of a bear when it determines such authorization furthers scientific or conservation purposes which will benefit the survival potential of the species or reduce property damage caused by bears.³⁸ The rules specifically state that activities that are eligible for a permit include the collection of scientific data needed for conservation or management of the species as well as taking bears that are causing property damage when non-lethal options cannot provide practical resolution to the damage, and FWC cannot capture the bear.³⁹ Members of the public may use non-lethal means to scare away bears that may be in a person's yard or rifling through trash. Black bears are not considered nuisance animals that can be taken by a property owner.⁴⁰

Hunting as a Management Tool

Bear hunting in Florida was first regulated in 1936 and continued through 1994 in certain parts of the state. The most recent bear hunt occurred in October 2015, during which FWC authorized four of the seven BMUs to be opened to bear hunting.⁴¹ Each BMU had an established harvest objective, which was based on taking 20 percent of the estimated BMU population and subtracting the annual known mortality.⁴² The table below depicts the harvest objectives and the actual harvest numbers.⁴³

Bear Management Unit	Population Estimate (Estimate Year)	20% of Population Estimate	Known Mortality (3 Year Average)	Harvest Objective	Actual Harvest
East Panhandle	600 ('02)	120	80	40	114
North	550 ('14)	110	10	100	25
Central	1,300 ('14)	260	160	100	143
South	700 ('02)	140	20	80	22
TOTALS	3,150	630	270	320	304

The hunt was authorized to begin October 24, 2015, and FWC had the ability to close the season using a daily cut-off mechanism both within each BMU and statewide.⁴⁴ The hunt was spread across 26 counties, and 78 percent of bears were taken on private lands.⁴⁵ The East Panhandle and Central BMUs were closed beginning October 25, 2015, while the North and South BMUs were closed beginning October 26, 2015.⁴⁶

According to FWC, hunting is used as a tool to meet wildlife population objectives, such as slowing population growth rates, rather than to resolve human-bear conflicts, which are better managed by securing items in neighborhoods that attract bears.⁴⁷

Effect of the Bill

³⁷ Rule 68A-4.009(1), F.A.C.

³⁸ Rule 68A-4.009(2), F.A.C.

³⁹ Rule 68A-4.009(2)(a)-(b), F.A.C.

⁴⁰ Rule 68A-9.010(1)(b)1., F.A.C.

⁴¹ FWC, *2015 Florida Black Bear Hunt Summary Report*, 1, available at <https://myfwc.com/media/13669/2015-florida-black-bear-hunt-report.pdf> (last visited Nov. 28, 2023).

⁴² *Id.* at 2.

⁴³ *Id.* at 3.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ FWC, *Florida Black Bear General Hunting FAQs*, <https://myfwc.com/wildlifehabitats/wildlife/bear/plan-faqs/hunting-faqs/> (last visited Nov. 28, 2023).

The bill creates the “Self Defense Act,” (act) which specifies that the use of lethal force to take a bear without a permit or authorization is justified if a person feels threatened and believes that using such force is necessary to protect himself or herself on his or her private property.

The bill specifies that the act does not apply if a person lures a bear with food or attractants for an illegal purpose, including training dogs to hunt bears, or provokes a bear to incite attack.

The bill specifies that a person who takes a bear pursuant to the act is not subject to any administrative, civil, or criminal penalties; must notify FWC within 24 hours after the taking; and may not possess, sell, or dispose of the taken bear or its parts. A bear taken under the act must be disposed of by FWC. The bill requires FWC to adopt rules to implement the act.

B. SECTION DIRECTORY:

Section 1. Creates the “Self Defense Act.”

Section 2. Creates s. 379.40411, F.S., related to the taking of bears.

Section 3. Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

FWC Constitutional Authority

Article IV, section 9, of the Florida Constitution establishes FWC and grants FWC the regulatory and executive powers of the state concerning wild animal life, freshwater aquatic life, and marine life. The bill may implicate this provision because it specifies that the take of a bear is justified under certain circumstances.

B. RULE-MAKING AUTHORITY:

The bill requires FWC to adopt rules to implement the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
 2 An act relating to taking of bears; providing a short
 3 title; creating s. 379.40411, F.S.; providing for the
 4 taking of bears without certain permits or
 5 authorizations under specified conditions; providing
 6 applicability; providing an exemption from penalties;
 7 requiring certain notification of such taking;
 8 prohibiting certain possession, sale, and disposal of
 9 such bears; requiring the disposal of such bears by
 10 the Fish and Wildlife Conservation Commission;
 11 requiring the commission to adopt rules; providing an
 12 effective date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. This act may be cited as the "Self Defense
 17 Act."

18 Section 2. Section 379.40411, Florida Statutes, is created
 19 to read:

20 379.40411 Taking of bears; use of lethal force in defense
 21 of person.-

22 (1)(a) The use of lethal force to take a bear without a
 23 permit or authorization required under this chapter is justified
 24 if a person feels threatened and believes that using such force
 25 is necessary to protect himself or herself on his or her private

26 property.
 27 (b) Paragraph (a) does not apply if a person
 28 intentionally:
 29 1. Lures a bear with food or attractants for an illegal
 30 purpose, including, but not limited to, training dogs to hunt
 31 bears; or
 32 2. Provokes a bear to incite an attack.
 33 (2) A person who takes a bear in accordance with
 34 subsection (1):
 35 (a) Is not subject to any administrative, civil, or
 36 criminal penalties.
 37 (b) Must notify the commission within 24 hours after the
 38 taking.
 39 (c) May not possess, sell, or dispose of the taken bear or
 40 its parts.
 41 (3) A bear taken under this section must be disposed of by
 42 the commission.
 43 (4) The commission shall adopt rules to implement this
 44 section.
 45 Section 3. This act shall take effect July 1, 2024.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 321 Release of Balloons
SPONSOR(S): Chaney
TIED BILLS: IDEN./SIM. BILLS: SB 602

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture, Conservation & Resiliency Subcommittee		Mamontoff	Moore
2) Criminal Justice Subcommittee			
3) Infrastructure Strategies Committee			

SUMMARY ANALYSIS

Intentional balloon releases are often included in weddings, sporting events, graduations, retail events, memorials, and funerals; however, balloons are unique in their ability to travel vast distances. As balloons are released, they drift away and eventually fall down somewhere becoming litter. They can be carried by currents and winds; therefore, the negative impacts of balloon litter can occur a significant distance from their point of release.

Balloon litter can pose a significant danger to wildlife and become a nuisance to the environment. Balloons take years to break down and often end up in waterways or the ocean, where they can be swallowed by marine animals. Turtles have been found to selectively eat burst balloons because they look like jellyfish, their natural food. Balloons, along with any ribbons or plastic discs attached, can harm animals by blocking their airways or becoming lodged in their intestines. Ribbons and strings from balloons can also become entangled around birds and other animals, making them unable to move.

Current law prohibits any person from intentionally releasing, organizing the release, or intentionally causing to be released within a 24-hour period 10 or more balloons inflated with a gas that is lighter than air. A person who violates this prohibition is guilty of a noncriminal infraction that is punishable by a \$250 fine.

The Florida Litter Law prohibits a person, unless otherwise authorized by law or permit, from dumping litter on public roads, waterways, and private property. The penalties for violating the law range from noncriminal infractions to third-degree felonies depending on the amount of litter dumped.

The bill revises the penalties for intentionally releasing balloons by specifying that a person commits littering if they intentionally release, organize the release, or intentionally cause to be released within a 24-hour period 10 or more balloons inflated with a gas that is lighter than air. Thus, the person is subject to the Florida Litter Law penalties.

The bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Fish and Wildlife Conservation Commission

The Fish and Wildlife Conservation Commission (FWC), created by Article IV, section 9, of the Florida Constitution, is responsible for regulating, managing, protecting, and conserving the state's fish and wildlife resources. FWC is governed by a board of seven members who are appointed by the Governor and confirmed by the Senate.¹ Pursuant to its constitutional authority, FWC exercises the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life.

Balloons

Balloons are often used during special occasions as decorations and gifts, and millions are intentionally released every year.² Balloons are made of foil or latex; are inflated with a gas lighter than air; and are sealed with plastic ribbons, valves, tie-off discs, and clips.

Foil balloons, often incorrectly referred to as Mylar³ balloons, are made with a polyester film.⁴ Foil (aluminum) is often added to give the balloon a shiny and colorful finish.⁵ The plastics in foil balloons never biodegrade. Instead, they break down into smaller and smaller particles called microplastics.⁶

Latex balloons are made with the sap from a rubber tree.⁷ Latex balloons are considered to be more eco-friendly than foil balloons because they are made from natural rather than synthetic material. However, latex balloons still take months or years to begin composting.⁸

The amount of time helium-filled balloons remain suspended in the air varies based on several factors including material, size, altitude and atmospheric conditions. Helium-filled foil balloons, for example, can float for two weeks or more if properly inflated and sealed.⁹ Latex balloons are more porous than foil balloons and typically float for one or two days.¹⁰

Balloon Litter

While intentional balloon releases are often included in weddings, sporting events, graduations, retail events, memorials, and funerals, the balloons that are released into the air don't just go away. Balloons are unique in their ability to travel vast distances. They can be carried by currents and winds; therefore, the negative impacts of balloon litter can occur at significant distances from their point of release.¹¹

¹ Article IV, s. 9, FLA. CONST

² Ocean Conservancy, *Be Balloon Aware*, <https://www.oceanconservation.org/be-balloon-aware/> (last visited Dec. 1, 2023).

³ "Mylar" is a brand name for a special type of polyester film.

⁴ Prevent Balloon Litter, *Sources of Balloon Litter*, <https://www.preventballoonlitter.org/what-is-balloon-litter> (last visited Dec. 1, 2023).

⁵ Ocean Conservancy, <https://www.oceanconservation.org/be-balloon-aware/> (last visited Dec. 1, 2023).

⁶ Microplastics are plastic debris that are less than five millimeters in length. National Oceanic and Atmospheric Administration (NOAA), *Microplastics*, <https://oceanservice.noaa.gov/facts/microplastics.html> (last visited Dec. 4, 2023).

⁷ Prevent Balloon Litter, <https://www.preventballoonlitter.org/what-is-balloon-litter> (last visited Dec. 1, 2023).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ NOAA, Marine Debris Program, *What Goes Up, Must Come Down*, June 26, 2018, <https://blog.marinedebris.noaa.gov/index.php/what-goes-must-come-down/> (visited Dec. 1, 2023).

Danger to Wildlife

Balloon litter poses a significant danger to wildlife and is a nuisance to the environment.¹² Balloon litter in waterbodies affects more than 260 species worldwide and has been identified as among the five deadliest types of marine debris in terms of the risk that they pose to marine wildlife.¹³

Entanglement and Starvation

Entanglement of marine life is a global problem that results in the death of hundreds of thousands of marine mammals and sea turtles worldwide every year.¹⁴ Entanglement refers to marine and coastal wildlife becoming trapped in items such as fishing line, crab traps, balloons with strings attached, and other marine debris.¹⁵

Deflated balloons and their strings drift into seagrass beds or snag onto floating vegetation, and similar to fishing lines and nets, seabirds and other marine animals can become helplessly entangled in balloon strings, making them unable to swim, fly, or move. Due to the loss of mobility, entangled animals cannot feed or effectively defend themselves from predators.¹⁶ Many marine animals drown when they become entangled in a trailing ribbon or string.

FWC actively works to prevent entanglement by partnering with other agencies and organizations on the Florida Marine Debris Reduction Guidance Plan, by partnering with local government agencies and non-profit organizations to increase awareness of the harm of behaviors that introduce marine debris into the environment, and by promoting clean-up events.¹⁷

Starvation is another unintended consequence of balloon litter. Balloons take years to break down, and often end up in waterways or the ocean, where they can be swallowed by marine animals. Like many other forms of synthetic debris, balloons can resemble prey and pose a threat to all kinds of marine organisms, many of which are threatened or endangered.¹⁸ Marine mammals, seabirds, and sea turtles often mistakenly ingest balloons thinking that they are an actual food source. Because they are unable to digest it, the balloon ends up either blocking their digestive system or stuck in their digestive system.¹⁹ In November 2023, for example, a necropsy conducted on a juvenile Gervais' beaked whale found washed ashore in North Carolina revealed a mylar balloon obstructed the whale's stomach, leading to starvation.²⁰

Several species of sea turtles and seabirds are particularly threatened by this type of pollution – even more than hard plastic – because balloons and balloon fragments are so easily mistaken for food.²¹ Thousands of sea turtles die each year from eating and becoming entangled in plastic bags and balloons floating in the water.²² Turtles have been found to selectively eat burst balloons because they look like jellyfish, their natural food.²³ A recent study of sea turtles found that of the 41 pieces of rubber

¹² Section 379.233(1), F.S.

¹³ Prevent Balloon Litter, <https://www.preventballoonlitter.org/what-is-balloon-litter> (last visited Dec. 1, 2023).

¹⁴ NOAA, *Entanglement of Marine Life: Risks and Response*, <https://www.fisheries.noaa.gov/insight/entanglement-marine-life-risks-and-response> (last visited Dec. 4, 2023).

¹⁵ FWC, *Entanglement Protection*, <https://myfwc.com/conservation/special-initiatives/cwci/entanglement/> (last visited Dec. 4, 2023).

¹⁶ Ocean Conservancy, <https://www.oceanconservation.org/be-balloon-aware/> (last visited Dec. 1, 2023).

¹⁷ FWC, *Entanglement Prevention*, <https://myfwc.com/conservation/special-initiatives/cwci/entanglement/> (last visited Dec. 4, 2023).

¹⁸ Ocean Conservancy, <https://oceanconservancy.org/blog/2012/08/29/high-flying-balloons-pose-a-definite-downside-for-ocean-wildlife/> (last visited Dec. 4, 2023).

¹⁹ FWC, *Entanglement Protection*, <https://myfwc.com/conservation/special-initiatives/cwci/entanglement> (last visited Dec. 4, 2023).

²⁰ NOAA, *Party Balloon Leads to Whale Death*, Nov. 13, 2023, <https://www.fisheries.noaa.gov/feature-story/party-balloon-leads-whale-death> (last visited Dec. 4, 2023).

²¹ Ocean Conservancy, <https://www.oceanconservation.org/be-balloon-aware/> (last visited Dec. 1, 2023).

²² FWC, *Sea Turtle FAQ*, <https://myfwc.com/research/wildlife/sea-turtles/florida/faq/> (last visited Dec 4, 2023).

²³ Environmental Protection Agency (EPA), <https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/litter/20p2679-balloon-information-factsheet.pdf?la=en&hash=5D5186DFD2FBE1596227800D5E3C6B2A7FCA94DD> (last visited Dec. 4, 2023); FWC, *Sea Turtle FAQ*, <https://myfwc.com/research/wildlife/sea-turtles/florida/faq/> (last visited Dec. 4 2023).

STORAGE NAME: h0321.ACR
DATE: 12/5/2023

eaten by the turtles studied, 32 pieces (78 percent) were balloon fragments.²⁴ For seabirds, balloons are the number one cause of death from marine debris-related risks.

Intentional Release of Balloons

Current Florida law prohibits any person from intentionally releasing, organizing the release, or intentionally causing to be released within a 24-hour period 10 or more balloons inflated with a gas that is lighter than air.²⁵ Exceptions to this prohibition are:

- Balloons released on behalf of a governmental agency or pursuant to a governmental contract for scientific or meteorological purposes;
- Hot air balloons that are recovered after launching;
- Balloons released indoors; or
- Balloons that are either biodegradable or photodegradable as determined by the rules of FWC, and are without string, ribbon, or any other attachments.²⁶

A person who violates this prohibition is guilty of a noncriminal infraction that is punishable by a \$250 fine.²⁷

Balloons that are either biodegradable or photodegradable, as determined by FWC rule, are exempt if a certificate executed by the manufacturer is provided to law enforcement. However, there has not yet been a balloon that FWC recognizes as meeting the exemption requirements for biodegradability or photodegradability.²⁸

The law authorizes a citizen of a county to petition the circuit court to enjoin the release of 10 or more balloons.²⁹

Florida Litter Law

The Florida Litter Law³⁰ prohibits a person, unless otherwise authorized by law or permit, from dumping³¹ litter³² in or on any:

- Public highway, road, street, alley, or thoroughfare, including any portion of the right-of-way thereof, or any other public lands, except in containers or areas lawfully provided therefor;
- Freshwater lake, river, canal, or stream, or tidal or coastal water of the state, including canals;
- Any water control district property or canal right-of-way, unless the district board of directors or the district manager or his or her designee has given prior consent; or
- Private property, unless prior consent of the owner has been given and unless the dumping will not cause a public nuisance or otherwise be in violation of any other state or local law, rule, or regulation.

The penalty for littering generally corresponds to the amount of litter discarded, as follows:³³

Amount of Litter	Penalty
------------------	---------

²⁴ Ocean Conservancy, <https://oceanconservancy.org/blog/2012/08/29/high-flying-balloons-pose-a-definite-downside-for-ocean-wildlife> (last visited Dec. 1, 2023).

²⁵ Section 379.223, F.S.

²⁶ Section 379.233(2)(a-d), F.S.

²⁷ Section 379.233(3), F.S.

²⁸ FWC, Agency Analysis for HB 91, July 1, 2023 (on file with the Agriculture, Conservation & Resiliency Subcommittee).

²⁹ Section 379.233(4), F.S.

³⁰ Section 403.413, F.S.

³¹ “Dump” means to dump, throw, discard, place, deposit, drain, discharge, or dispose of. Section 403.413(2)(d), F.S.

³² “Litter” means any personal property; garbage; rubbish; trash; refuse; can; bottle; box; container; paper; tobacco product; pharmaceutical of any kind; tire; household item; shed; appliance; mechanical equipment or part; building or construction material; tool; machinery; wood; motor vehicle or motor vehicle part, including a truck, trailer, or motor home; vessel, aircraft; farm machinery or equipment; sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility; or substance in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations, but excluding permitted, regulated, or authorized drainage, pumping, or runoff of surface water or stormwater. Section 403.413(2)(f), F.S.

³³ Section 403.413(6), F.S.

<p style="text-align: center;">≤ 15 pounds or ≤ 27 cubic feet</p>	<p style="text-align: center;">Noncriminal infraction, punishable by a civil penalty of \$150³⁴</p>
<p style="text-align: center;">> 15 pounds but ≤ 500 pounds or > 27 cubic feet but ≤ 100 cubic feet</p>	<p style="text-align: center;">First-degree misdemeanor, punishable by up to one year in jail and a \$1,000 fine³⁵</p>
<p style="text-align: center;">> 500 pounds or > 100 cubic feet</p>	<p style="text-align: center;">Third-degree felony, punishable by up to five years imprisonment and a \$5,000 fine³⁶</p>

It is the duty of all law enforcement officers³⁷ to enforce Florida's Litter Law.

Effect of the Bill

The bill specifies that any person who intentionally releases, organizes the release, or intentionally causes to be released within a 24-hour period 10 or more balloons inflated with a gas that is lighter than air commits littering. Thus, a person who commits such act is subject to the littering penalties outlined above.

The bill revises the following definitions in the Florida Litter Law:

- "Dump," by adding intentional release; and
- "Litter," by adding balloon.

B. SECTION DIRECTORY:

Section 1. Amends s. 379.233, F.S., relating to the release of balloons.

Section 2. Amends s. 403.413, F.S., relating to Florida Litter Law.

Section 3. Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

³⁴ From each civil penalty, \$50 must be deposited into the Solid Waste Management Trust Fund to be used for the solid waste management grant program pursuant to s. 403.7095. Section 403.413(6)(a), F.S.

³⁵ Sections 775.082(4)(a) and 775.083(1)(d), F.S.

³⁶ Sections 775.082(3)(e) and 775.083(1)(c), F.S.

³⁷ "Law enforcement officer" means any officer of the Florida Highway Patrol, a county sheriff's department, a municipal law enforcement department, a law enforcement department of any other political subdivision, the Department of Environmental Protection, or FWC. In addition, and solely for the purposes of the Florida Litter Law, "law enforcement officer" means any employee of a county or municipal park or recreation department designated by the department head as a litter enforcement officer. Section 403.413(2)(e), F.S.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
 2 An act relating to the release of balloons; amending
 3 s. 379.233, F.S.; providing that the intentional
 4 release of certain balloons is littering; revising the
 5 penalty for such release; amending s. 403.413, F.S.;
 6 revising definitions; providing an effective date.

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

9
 10 Section 1. Subsection (3) of section 379.233, Florida
 11 Statutes, is amended, and subsection (2) of that section is
 12 republished, to read:

13 379.233 Release of balloons.—

14 (2) It is unlawful for any person, firm, or corporation to
 15 intentionally release, organize the release, or intentionally
 16 cause to be released within a 24-hour period 10 or more balloons
 17 inflated with a gas that is lighter than air except for:

18 (a) Balloons released by a person on behalf of a
 19 governmental agency or pursuant to a governmental contract for
 20 scientific or meteorological purposes;

21 (b) Hot air balloons that are recovered after launching;

22 (c) Balloons released indoors; or

23 (d) Balloons that are either biodegradable or
 24 photodegradable, as determined by rule of the Fish and Wildlife
 25 Conservation Commission, and which are closed by a hand-tied

26 | knot in the stem of the balloon without string, ribbon, or other
 27 | attachments. In the event that any balloons are released
 28 | pursuant to the exemption established in this paragraph, the
 29 | party responsible for the release shall make available to any
 30 | law enforcement officer evidence of the biodegradability or
 31 | photodegradability of said balloons in the form of a certificate
 32 | executed by the manufacturer. Failure to provide said evidence
 33 | shall be prima facie evidence of a violation of this act.

34 | (3) Any person who violates subsection (2) commits
 35 | littering and is guilty of a noncriminal infraction, punishable
 36 | as provided in s. 403.413(6)(a) by a fine of \$250.

37 | Section 2. Paragraphs (d) and (f) of subsection (2) of
 38 | section 403.413, Florida Statutes, are amended to read:

39 | 403.413 Florida Litter Law.—

40 | (2) DEFINITIONS.—As used in this section:

41 | (d) "Dump" means to dump, throw, discard, place, deposit,
 42 | drain, discharge, ~~or~~ dispose of, or intentionally release.

43 | (f) "Litter" means any personal property; garbage;
 44 | rubbish; trash; refuse; can; bottle; box; container; paper;
 45 | balloon; tobacco product; pharmaceutical of any kind; tire;
 46 | household item; shed; appliance; mechanical equipment or part;
 47 | building or construction material; tool; machinery; wood; motor
 48 | vehicle or motor vehicle part, including a truck, trailer, or
 49 | motor home; vessel; aircraft; farm machinery or equipment;
 50 | sludge from a waste treatment facility, water supply treatment

HB 321

2024

51 | plant, or air pollution control facility; or substance in any
52 | form resulting from domestic, industrial, commercial, mining,
53 | agricultural, or governmental operations, but excluding
54 | permitted, regulated, or authorized drainage, pumping, or runoff
55 | of surface water or stormwater.

56 | Section 3. This act shall take effect July 1, 2024.

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Agriculture, Conservation
2 & Resiliency Subcommittee

3 Representative Chaney offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsections (2), (3), and (4) of section

8 379.233, Florida Statutes, are amended to read:

9 379.233 Release of balloons.—

10 (2) It is unlawful for any person, firm, or corporation to
11 intentionally release, organize the release of, or intentionally
12 cause to be released ~~within a 24-hour period 10 or more~~ balloons
13 inflated with a gas that is lighter than air except for any of
14 the following:

15 (a) Balloons released by a person on behalf of a
16 governmental agency or pursuant to a governmental contract for

Amendment No.

17 scientific or meteorological purposes.†

18 (b) Hot air balloons ~~that are~~ recovered after launching.†

19 (c) Balloons released indoors; ~~or~~

20 ~~(d) Balloons that are either biodegradable or~~
21 ~~photodegradable, as determined by rule of the Fish and Wildlife~~
22 ~~Conservation Commission, and which are closed by a hand-tied~~
23 ~~knot in the stem of the balloon without string, ribbon, or other~~
24 ~~attachments. In the event that any balloons are released~~
25 ~~pursuant to the exemption established in this paragraph, the~~
26 ~~party responsible for the release shall make available to any~~
27 ~~law enforcement officer evidence of the biodegradability or~~
28 ~~photodegradability of said balloons in the form of a certificate~~
29 ~~executed by the manufacturer. Failure to provide said evidence~~
30 ~~shall be prima facie evidence of a violation of this act.~~

31 (3) Any person who violates subsection (2) commits is
32 ~~guilty of~~ a noncriminal littering infraction, punishable as
33 provided in s. 403.413(6)(a) by a fine of \$250.

34 ~~(4) Any person may petition the circuit court to enjoin~~
35 ~~the release of 10 or more balloons if that person is a citizen~~
36 ~~of the county in which the balloons are to be released.~~

37 Section 2. Paragraphs (d) and (f) of subsection (2) of
38 section 403.413, Florida Statutes, are amended to read:

39 403.413 Florida Litter Law.—

40 (2) DEFINITIONS.—As used in this section:

41 (d) "Dump" means to dump, throw, discard, place, deposit,

Amendment No.

42 drain, discharge, ~~or~~ dispose of, or intentionally release.

43 (f) "Litter" means any personal property; garbage;
44 rubbish; trash; refuse; can; bottle; box; container; paper;
45 balloon; tobacco product; pharmaceutical of any kind; tire;
46 household item; shed; appliance; mechanical equipment or part;
47 building or construction material; tool; machinery; wood; motor
48 vehicle or motor vehicle part, including a truck, trailer, or
49 motor home; vessel; aircraft; farm machinery or equipment;
50 sludge from a waste treatment facility, water supply treatment
51 plant, or air pollution control facility; or substance in any
52 form resulting from domestic, industrial, commercial, mining,
53 agricultural, or governmental operations, but excluding
54 permitted, regulated, or authorized drainage, pumping, or runoff
55 of surface water or stormwater.

56 Section 3. For the purpose of incorporating the amendment
57 made by this act to section 403.413, Florida Statutes, in a
58 reference thereto, subsection (1) of section 403.4135, Florida
59 Statutes, is reenacted to read:

60 403.4135 Litter receptacles.—

61 (1) DEFINITIONS.—As used in this section "litter" and
62 "vessel" have the same meanings as provided in s. 403.413.

63 Section 4. This act shall take effect July 1, 2024.

64
65 -----

66 **T I T L E A M E N D M E N T**

Amendment No.

67 Remove everything before the enacting clause and insert:
68 A bill to be entitled
69 An act relating to the release of balloons; amending
70 s. 379.233, F.S.; revising a prohibition on the
71 release of certain balloons to delete a specified
72 timeframe and number of balloons; deleting an
73 exemption from such prohibition for certain
74 biodegradable or photodegradable balloons; providing
75 that a person who violates the prohibition commits the
76 noncriminal infraction of littering; revising the
77 penalty for such violation; deleting a provision
78 authorizing petitions to enjoin the release of
79 balloons under certain circumstances; amending s.
80 403.413, F.S.; revising the definitions of the terms
81 "dump" and "litter"; reenacting s. 403.4135(1), F.S.,
82 relating to litter receptacles, to incorporate the
83 amendment made to s. 403.413, F.S., in a reference
84 thereto; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 437 Anchoring Limitation Areas

SPONSOR(S): Porras and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 192

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture, Conservation & Resiliency Subcommittee		Mamontoff	Moore
2) Infrastructure Strategies Committee			

SUMMARY ANALYSIS

The Fish and Wildlife Conservation Commission (FWC), created by Article IV, section 9, of the Florida Constitution, is responsible for regulating, managing, protecting, and conserving the state's fish and wildlife resources. Pursuant to its constitutional authority, FWC exercises the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life. Through its Division of Law Enforcement, FWC manages the state's waterways to ensure boating safety for residents and visitors to the state.

Anchoring 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. Anchorages are areas that boaters regularly use for anchoring, whether designated or managed for that purpose or not.

In an anchoring limitation area, a person is prohibited from anchoring a vessel at any time during the period between one half-hour after sunset and one half-hour before sunrise. Current law designates certain densely populated urban areas that have narrow state waterways, residential docking facilities, and significant recreational boating traffic as anchoring limitation areas.

The following areas are designated in statute 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 section of Biscayne Bay in Miami-Dade County lying between Rivo Alto Island and Di Lido Island, San Marino Island and San Marco Island, and San Marco Island and Biscayne Island.

The bill expands the portions of Biscayne Bay that are designated as anchoring limitation areas. Specifically, the bill designates the sections of Biscayne Bay that are within 200 yards of any part of the shore of Rivo Alto Island, Di Lido Island, San Marino Island, San Marco Island, Biscayne Island, Palm Island, and Hibiscus Island as anchoring limitation areas.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Fish and Wildlife Conservation Commission

The Fish and Wildlife Conservation Commission (FWC), created by Article IV, section 9, of the Florida Constitution, is responsible for regulating, managing, protecting, and conserving the state's fish and wildlife resources. FWC is governed by a board of seven members who are appointed by the Governor and confirmed by the Senate.¹ Pursuant to its constitutional authority, FWC exercises the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life.

FWC is also the agency responsible for regulating boating safety in the state. Through its Division of Law Enforcement, FWC manages the state's waterways to ensure boating safety for residents and visitors to the state.² This responsibility includes enforcing boating rules and regulations, coordinating boating safety campaigns and education, managing public water and access to the waters, conducting boating accident investigations, identifying and removing derelict vessels, and investigating vessel theft and title fraud.³

Anchoring

Anchoring 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.⁴ Anchorages are areas that boaters regularly use for anchoring, whether designated or managed for that purpose or not.⁵

State Regulation of the Anchoring of Vessels

The Legislature has delegated the responsibility of managing sovereign submerged lands to the Governor and Cabinet, sitting as the Board of Trustees of the Internal Improvement Trust Fund (Board). Pursuant to this responsibility, the Board is authorized to adopt rules governing anchoring, mooring, or otherwise attaching vessels, floating homes, or any other watercraft to the bottom of sovereign submerged lands.⁶ The Board has not exercised its authority to adopt rules regulating anchoring.

Florida law prohibits a person from anchoring a vessel, except in case of emergency, in a manner that unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel.⁷ Anchoring under bridges or in or adjacent to heavily traveled channels constitutes interference, if unreasonable under the prevailing circumstances.⁸ Interference with navigation is a noncriminal infraction and punishable by a fine of \$50.⁹

With certain exceptions, the owner or operator of a vessel or floating structure may not anchor such that the nearest approach of the anchored or moored vessel or floating structure is:

- Within 150 feet of any marina, boat ramp, boatyard, or vessel launching or loading facility;
- Within 300 feet of a superyacht repair facility; or

¹ Article IV, s. 9, FLA. CONST.

² Fish and Wildlife Conservation Commission (FWC), Boating, <https://myfwc.com/boating/> (last visited Dec. 1, 2023).

³ FWC, Law Enforcement, <https://myfwc.com/about/inside-fwc/le/> (last visited Dec. 1, 2023). See s. 327.70(1) and (4), F.S.

⁴ Ankersen, Hamann, & Flagg, Anchoring Away: Government Regulation and the Rights of Navigation in Florida, (March 2011), <https://repository.library.noaa.gov/view/noaa/36905> (last visited Dec. 1, 2023).

⁵ *Id.*

⁶ Section 253.03(7), F.S.

⁷ Section 327.44(2), F.S.

⁸ *Id.*

⁹ Section 327.73(1)(j), F.S.

- Within 100 feet outward from the marked boundary of a public mooring field or a lesser distance if approved by the local government within which the mooring field is located.¹⁰

Local Regulation of the Anchoring of Vessels

Local governments are authorized to enact and enforce ordinances that prohibit or restrict the anchoring of floating structures¹¹ or live-aboard vessels¹² within their jurisdictions and vessels that are within the marked boundaries of permitted mooring fields.¹³ However, they 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.¹⁴

Anchoring Limitation Areas

Current law designates certain densely populated urban areas that have narrow state waterways, residential docking facilities, and significant recreational boating traffic as anchoring limitation areas.¹⁵ The following areas are designated in statute 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 section of Biscayne Bay in Miami-Dade County lying between Rivo Alto Island and Di Lido Island, San Marino Island and San Marco Island, and San Marco Island and Biscayne Island.¹⁶

In an anchoring limitation area, a person is prohibited from anchoring a vessel at any time during the period between one half-hour after sunset and one half-hour before sunrise.¹⁷ However, a person may anchor in an anchoring limitation area if:

- The vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the people onboard unless the vessel anchors;
- Imminent or existing weather conditions in the vicinity pose an unreasonable risk of harm to the vessel or the people onboard unless the vessel anchors; or
- The vessel is attending a regatta, race, marine parade, tournament, exhibition,¹⁸ or other special event, including, but not limited to, public music performances, local government waterfront activities, or a fireworks display.¹⁹

The Division of Law Enforcement of FWC and its officers, county sheriffs and deputies, and municipal police officers typically enforce anchoring limitation areas.²⁰ Such law enforcement officers are authorized to remove and impound a vessel that, after being issued a citation for violation of the anchoring limitation area, anchors the vessel in the 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 law enforcement.²¹

¹⁰ Section 327.4109(1), F.S.

¹¹ Section 327.02(14), F.S., defines “floating structure” as 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 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.

¹² Section 327.02(22), F.S., defines “live-aboard vessel” as 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.

¹³ Section 327.60(2)(f), F.S.

¹⁴ Section 327.60(3), F.S.

¹⁵ Section 327.4108, F.S.

¹⁶ Section 327.4108(1), F.S.

¹⁷ Section 327.4108(2), F.S.

¹⁸ Section 327.48, F.S.

¹⁹ Section 327.4108(3), F.S.

²⁰ Section 327.70(1), F.S.

²¹ Section 327.4108(5)(b), F.S.

Anchoring limitation areas do not apply to 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; or vessels engaged in recreational fishing if the individuals on board are actively tending hook and line fishing gears or nets.²²

Effect of the Bill

The bill expands the portions of Biscayne Bay that are designated as anchoring limitation areas. Specifically, the bill designates the sections of Biscayne Bay that are within 200 yards of any part of the shore of Rivo Alto Island, Di Lido Island, San Marino Island, San Marco Island, Biscayne Island, Palm Island, and Hibiscus Island as anchoring limitation areas.

B. SECTION DIRECTORY:

Section 1. Amends s. 327.4108, F.S., relating to anchoring of vessels in anchoring limitation areas.

Section 2. Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

²² Section 327.4108(4), F.S.
STORAGE NAME: h0437.ACR
DATE: 12/5/2023

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
 2 An act relating to anchoring limitation areas;
 3 amending s. 327.4108, F.S.; revising anchoring
 4 limitation areas in certain sections of Biscayne Bay
 5 in Miami-Dade County; providing an effective date.

6
 7 Be It Enacted by the Legislature of the State of Florida:
 8

9 Section 1. Paragraph (c) of subsection (1) of section
 10 327.4108, Florida Statutes, is amended to read:

11 327.4108 Anchoring of vessels in anchoring limitation
 12 areas.—

13 (1) The following densely populated urban areas, which
 14 have narrow state waterways, residential docking facilities, and
 15 significant recreational boating traffic, are designated as and
 16 shall be considered to be grandfathered-in anchoring limitation
 17 areas, within which a person may not anchor a vessel at any time
 18 during the period between one-half hour after sunset and one-
 19 half hour before sunrise, except as provided in subsections (4)
 20 and (5):

21 (c) The sections of Biscayne Bay in Miami-Dade County that
 22 are within 200 yards of any part of the shore of ~~lying between:~~

- 23 1. Rivo Alto Island ~~and Di Lido Island.~~
- 24 2. Di Lido Island.
- 25 3. ~~2.~~ San Marino Island ~~and San Marco Island.~~

HB437

2024

26 | ~~4.3.~~ San Marco Island ~~and Biscayne Island.~~

27 | 5. Biscayne Island.

28 | 6. Palm Island.

29 | 7. Hibiscus Island.

30 | Section 2. This act shall take effect July 1, 2024.

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Agriculture, Conservation
2 & Resiliency Subcommittee

3 Representative Porrás offered the following:

4

5 **Amendment**

6 Remove lines 21-29 and insert:

7 (c) The sections of Biscayne Bay in Miami-Dade County that
8 are within 200 yards of any part of the shore of the City of
9 Miami Beach lying between State Road A1A and State Road 112÷

10 1. ~~Rivo Alto Island and Di Lido Island.~~

11 2. ~~San Marino Island and San Marco Island.~~

12 3. ~~San Marco Island and Biscayne Island.~~