



695258

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/07/2010	.	
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The Committee on Criminal Justice (Crist) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 509.144, Florida Statutes, is amended to  
read:

509.144 Prohibited handbill distribution in a public  
lodging establishment; penalties.—

(1) As used in this section, the term:

(a) "Handbill" means a flier, leaflet, pamphlet, or other  
written material that advertises, promotes, or informs persons



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13 about an individual, business, company, or food service  
14 establishment, but does ~~shall~~ not include employee  
15 communications permissible under the National Labor Relations  
16 Act or other communication protected by the First Amendment to  
17 the United States Constitution.

18 (b) "Without permission" means without the expressed  
19 written ~~or oral~~ permission of the owner, manager, or agent of  
20 the owner or manager of the public lodging establishment where a  
21 sign is posted prohibiting advertising or solicitation in the  
22 manner provided in subsection (5) ~~(4)~~.

23 (c) "At or in a public lodging establishment" means any  
24 property under the sole ownership or control of a public lodging  
25 establishment.

26 (2) Any person ~~individual~~, agent, contractor, or volunteer  
27 who is acting on behalf of a person ~~an individual~~, business,  
28 company, or food service establishment and who, without  
29 permission, delivers, distributes, or places, or attempts to  
30 deliver, distribute, or place, a handbill at or in a public  
31 lodging establishment commits a misdemeanor of the first degree,  
32 punishable as provided in s. 775.082 or s. 775.083.

33 (3) Any person who, without permission, directs another  
34 person to deliver, distribute, or place, or attempts to deliver,  
35 distribute, or place, a handbill at or in a public lodging  
36 establishment commits a misdemeanor of the first degree,  
37 punishable as provided in s. 775.082 or s. 775.083. Any person  
38 sentenced under this subsection shall be ordered to pay a  
39 minimum fine of \$1,000 ~~\$500~~ in addition to any other penalty  
40 imposed by the court.

41 (4) In addition to any other penalty imposed by the court,



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42 a person who violates subsection (2) or subsection (3):

43 (a) A second time shall be ordered to pay a minimum fine of  
44 \$2,000.

45 (b) A third or subsequent time shall be ordered to pay a  
46 minimum fine of \$3,000.

47 (5)~~(4)~~ For purposes of this section, a public lodging  
48 establishment that intends to prohibit advertising or  
49 solicitation, as described in this section, at or in such  
50 establishment must comply with the following requirements when  
51 posting a sign prohibiting such solicitation or advertising:

52 (a) There must appear prominently on any sign referred to  
53 in this subsection, in letters of not less than 2 inches in  
54 height, the terms "no advertising" or "no solicitation" or terms  
55 that indicate the same meaning.

56 (b) The sign must be posted conspicuously.

57 (c) If the main office of the public lodging establishment  
58 is immediately accessible by entering the office through a door  
59 from a street, parking lot, grounds, or other area outside such  
60 establishment, the sign must be placed on a part of the main  
61 office, such as a door or window, and the sign must face the  
62 street, parking lot, grounds, or other area outside such  
63 establishment.

64 (d) If the main office of the public lodging establishment  
65 is not immediately accessible by entering the office through a  
66 door from a street, parking lot, grounds, or other area outside  
67 such establishment, the sign must be placed in the immediate  
68 vicinity of the main entrance to such establishment, and the  
69 sign must face the street, parking lot, grounds, or other area  
70 outside such establishment.



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71           (6) Any personal property, including, but not limited to,  
72 any vehicle of any kind, item, object, tool, device, weapon,  
73 machine, money, securities, books, or records, which is used or  
74 attempted to be used as an instrumentality in the commission of,  
75 or in aiding and abetting in the commission of, a person's third  
76 or subsequent violation of this section, whether or not  
77 comprising an element of the offense, is subject to seizure and  
78 forfeiture under the Florida Contraband Forfeiture Act.

79           Section 2. Subsection (16) is added to section 901.15,  
80 Florida Statutes, to read:

81           901.15 When arrest by officer without warrant is lawful.—A  
82 law enforcement officer may arrest a person without a warrant  
83 when:

84           (16) The officer has determined that he or she has probable  
85 cause to believe that a violation of s. 509.144 has been  
86 committed and where the owner or manager of the public lodging  
87 establishment in which the violation occurred signs an affidavit  
88 containing information that supports the officer's determination  
89 of probable cause.

90           Section 3. Paragraph (a) of subsection (2) of section  
91 932.701, Florida Statutes, is amended to read:

92           932.701 Short title; definitions.—

93           (2) As used in the Florida Contraband Forfeiture Act:

94           (a) "Contraband article" means:

95           1. Any controlled substance as defined in chapter 893 or  
96 any substance, device, paraphernalia, or currency or other means  
97 of exchange that was used, was attempted to be used, or was  
98 intended to be used in violation of any provision of chapter  
99 893, if the totality of the facts presented by the state is



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100 clearly sufficient to meet the state's burden of establishing  
101 probable cause to believe that a nexus exists between the  
102 article seized and the narcotics activity, whether or not the  
103 use of the contraband article can be traced to a specific  
104 narcotics transaction.

105         2. Any gambling paraphernalia, lottery tickets, money,  
106 currency, or other means of exchange which was used, was  
107 attempted, or intended to be used in violation of the gambling  
108 laws of the state.

109         3. Any equipment, liquid or solid, which was being used, is  
110 being used, was attempted to be used, or intended to be used in  
111 violation of the beverage or tobacco laws of the state.

112         4. Any motor fuel upon which the motor fuel tax has not  
113 been paid as required by law.

114         5. Any personal property, including, but not limited to,  
115 any vessel, aircraft, item, object, tool, substance, device,  
116 weapon, machine, vehicle of any kind, money, securities, books,  
117 records, research, negotiable instruments, or currency, which  
118 was used or was attempted to be used as an instrumentality in  
119 the commission of, or in aiding or abetting in the commission  
120 of, any felony, whether or not comprising an element of the  
121 felony, or which is acquired by proceeds obtained as a result of  
122 a violation of the Florida Contraband Forfeiture Act.

123         6. Any real property, including any right, title,  
124 leasehold, or other interest in the whole of any lot or tract of  
125 land, which was used, is being used, or was attempted to be used  
126 as an instrumentality in the commission of, or in aiding or  
127 abetting in the commission of, any felony, or which is acquired  
128 by proceeds obtained as a result of a violation of the Florida



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129 Contraband Forfeiture Act.

130 7. Any personal property, including, but not limited to,  
131 equipment, money, securities, books, records, research,  
132 negotiable instruments, currency, or any vessel, aircraft, item,  
133 object, tool, substance, device, weapon, machine, or vehicle of  
134 any kind in the possession of or belonging to any person who  
135 takes aquaculture products in violation of s. 812.014(2)(c).

136 8. Any motor vehicle offered for sale in violation of s.  
137 320.28.

138 9. Any motor vehicle used during the course of committing  
139 an offense in violation of s. 322.34(9)(a).

140 10. Any photograph, film, or other recorded image,  
141 including an image recorded on videotape, a compact disc,  
142 digital tape, or fixed disk, that is recorded in violation of s.  
143 810.145 and is possessed for the purpose of amusement,  
144 entertainment, sexual arousal, gratification, or profit, or for  
145 the purpose of degrading or abusing another person.

146 11. Any real property, including any right, title,  
147 leasehold, or other interest in the whole of any lot or tract of  
148 land, which is acquired by proceeds obtained as a result of  
149 Medicaid fraud under s. 409.920 or s. 409.9201; any personal  
150 property, including, but not limited to, equipment, money,  
151 securities, books, records, research, negotiable instruments, or  
152 currency; or any vessel, aircraft, item, object, tool,  
153 substance, device, weapon, machine, or vehicle of any kind in  
154 the possession of or belonging to any person which is acquired  
155 by proceeds obtained as a result of Medicaid fraud under s.  
156 409.920 or s. 409.9201.

157 12. Any personal property, including, but not limited to,



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158 any vehicle of any kind, item, object, tool, device, weapon,  
159 machine, money, securities, books, or records, which is used or  
160 attempted to be used as an instrumentality in the commission of,  
161 or in aiding and abetting in the commission of, a person's third  
162 or subsequent violation of s. 509.144, whether or not comprising  
163 an element of the offense.

164 Section 4. The terms and provisions of the act do not  
165 affect or impede the provisions of s. 790.251, Florida Statutes,  
166 or any other protection or right guaranteed by the Second  
167 Amendment to the United States Constitution.

168 Section 5. This act shall take effect October 1, 2010.

170 ===== T I T L E A M E N D M E N T =====

171 And the title is amended as follows:

173 Delete everything before the enacting clause  
174 and insert:

175 A bill to be entitled  
176 An act relating to handbill distribution; amending s.  
177 509.144, F.S.; revising definitions; providing  
178 additional penalties for the offense of unlawfully  
179 distributing handbills in a public lodging  
180 establishment; specifying that certain items used in  
181 committing such offense are subject to seizure and  
182 forfeiture under the Florida Contraband Forfeiture  
183 Act; amending s. 901.15, F.S.; authorizing a law  
184 enforcement officer to arrest a person without a  
185 warrant when there is probable cause to believe the  
186 person violated s. 509.144, F.S., and where the owner



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187 or manager of the public lodging establishment signs  
188 an affidavit containing information supporting the  
189 determination of probable cause; amending s. 932.701,  
190 F.S.; revising the definition of the term  
191 "contraband"; providing that the terms and provisions  
192 of the act do not affect or impede the provisions of a  
193 specified state statute or any protection or right  
194 guaranteed by the Second Amendment to the United  
195 States Constitution; providing an effective date.