

By the Committee on Criminal Justice; and Senator Altman

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1                   A bill to be entitled  
2           An act relating to handbill distribution; amending s.  
3           509.144, F.S.; revising definitions; providing  
4           additional penalties for the offense of unlawfully  
5           distributing handbills in a public lodging  
6           establishment; specifying that certain items used in  
7           committing such offense are subject to seizure and  
8           forfeiture under the Florida Contraband Forfeiture  
9           Act; amending s. 901.15, F.S.; authorizing a law  
10          enforcement officer to arrest a person without a  
11          warrant when there is probable cause to believe the  
12          person violated s. 509.144, F.S., and where the owner  
13          or manager of the public lodging establishment signs  
14          an affidavit containing information supporting the  
15          determination of probable cause; amending s. 932.701,  
16          F.S.; revising the definition of the term  
17          "contraband"; providing that the terms and provisions  
18          of the act do not affect or impede the provisions of a  
19          specified state statute or any protection or right  
20          guaranteed by the Second Amendment to the United  
21          States Constitution; providing an effective date.

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

24  
25           Section 1. Section 509.144, Florida Statutes, is amended to  
26           read:

27           509.144 Prohibited handbill distribution in a public  
28           lodging establishment; penalties.—

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

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30 (a) "Handbill" means a flier, leaflet, pamphlet, or other  
31 written material that advertises, promotes, or informs persons  
32 about an individual, business, company, or food service  
33 establishment, but does ~~shall~~ not include employee  
34 communications permissible under the National Labor Relations  
35 Act or other communication protected by the First Amendment to  
36 the United States Constitution.

37 (b) "Without permission" means without the expressed  
38 written ~~or oral~~ permission of the owner, manager, or agent of  
39 the owner or manager of the public lodging establishment where a  
40 sign is posted prohibiting advertising or solicitation in the  
41 manner provided in subsection (5) ~~(4)~~.

42 (c) "At or in a public lodging establishment" means any  
43 property under the sole ownership or control of a public lodging  
44 establishment.

45 (2) Any person ~~individual~~, agent, contractor, or volunteer  
46 who is acting on behalf of a person ~~an individual~~, business,  
47 company, or food service establishment and who, without  
48 permission, delivers, distributes, or places, or attempts to  
49 deliver, distribute, or place, a handbill at or in a public  
50 lodging establishment commits a misdemeanor of the first degree,  
51 punishable as provided in s. 775.082 or s. 775.083.

52 (3) Any person who, without permission, directs another  
53 person to deliver, distribute, or place, or attempts to deliver,  
54 distribute, or place, a handbill at or in a public lodging  
55 establishment commits a misdemeanor of the first degree,  
56 punishable as provided in s. 775.082 or s. 775.083. Any person  
57 sentenced under this subsection shall be ordered to pay a  
58 minimum fine of \$1,000 ~~\$500~~ in addition to any other penalty

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59 imposed by the court.

60 (4) In addition to any other penalty imposed by the court,  
61 a person who violates subsection (2) or subsection (3):

62 (a) A second time shall be ordered to pay a minimum fine of  
63 \$2,000.

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

66 (5)-(4) For purposes of this section, a public lodging  
67 establishment that intends to prohibit advertising or  
68 solicitation, as described in this section, at or in such  
69 establishment must comply with the following requirements when  
70 posting a sign prohibiting such solicitation or advertising:

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

75 (b) The sign must be posted conspicuously.

76 (c) If the main office of the public lodging establishment  
77 is immediately accessible by entering the office through a door  
78 from a street, parking lot, grounds, or other area outside such  
79 establishment, the sign must be placed on a part of the main  
80 office, such as a door or window, and the sign must face the  
81 street, parking lot, grounds, or other area outside such  
82 establishment.

83 (d) If the main office of the public lodging establishment  
84 is not immediately accessible by entering the office through a  
85 door from a street, parking lot, grounds, or other area outside  
86 such establishment, the sign must be placed in the immediate  
87 vicinity of the main entrance to such establishment, and the

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88 sign must face the street, parking lot, grounds, or other area  
89 outside such establishment.

90 (6) Any personal property, including, but not limited to,  
91 any vehicle of any kind, item, object, tool, device, weapon,  
92 machine, money, securities, books, or records, which is used or  
93 attempted to be used as an instrumentality in the commission of,  
94 or in aiding and abetting in the commission of, a person's third  
95 or subsequent violation of this section, whether or not  
96 comprising an element of the offense, is subject to seizure and  
97 forfeiture under the Florida Contraband Forfeiture Act.

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

100 901.15 When arrest by officer without warrant is lawful.—A  
101 law enforcement officer may arrest a person without a warrant  
102 when:

103 (16) The officer has determined that he or she has probable  
104 cause to believe that a violation of s. 509.144 has been  
105 committed and where the owner or manager of the public lodging  
106 establishment in which the violation occurred signs an affidavit  
107 containing information that supports the officer's determination  
108 of probable cause.

109 Section 3. Paragraph (a) of subsection (2) of section  
110 932.701, Florida Statutes, is amended to read:

111 932.701 Short title; definitions.—

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

113 (a) "Contraband article" means:

114 1. Any controlled substance as defined in chapter 893 or  
115 any substance, device, paraphernalia, or currency or other means  
116 of exchange that was used, was attempted to be used, or was

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117 intended to be used in violation of any provision of chapter  
118 893, if the totality of the facts presented by the state is  
119 clearly sufficient to meet the state's burden of establishing  
120 probable cause to believe that a nexus exists between the  
121 article seized and the narcotics activity, whether or not the  
122 use of the contraband article can be traced to a specific  
123 narcotics transaction.

124 2. Any gambling paraphernalia, lottery tickets, money,  
125 currency, or other means of exchange which was used, was  
126 attempted, or intended to be used in violation of the gambling  
127 laws of the state.

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

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

133 5. Any personal property, including, but not limited to,  
134 any vessel, aircraft, item, object, tool, substance, device,  
135 weapon, machine, vehicle of any kind, money, securities, books,  
136 records, research, negotiable instruments, or currency, which  
137 was used or was attempted to be used as an instrumentality in  
138 the commission of, or in aiding or abetting in the commission  
139 of, any felony, whether or not comprising an element of the  
140 felony, or which is acquired by proceeds obtained as a result of  
141 a violation of the Florida Contraband Forfeiture Act.

142 6. Any real property, including any right, title,  
143 leasehold, or other interest in the whole of any lot or tract of  
144 land, which was used, is being used, or was attempted to be used  
145 as an instrumentality in the commission of, or in aiding or

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146 abetting in the commission of, any felony, or which is acquired  
147 by proceeds obtained as a result of a violation of the Florida  
148 Contraband Forfeiture Act.

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

155 8. Any motor vehicle offered for sale in violation of s.  
156 320.28.

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

159 10. Any photograph, film, or other recorded image,  
160 including an image recorded on videotape, a compact disc,  
161 digital tape, or fixed disk, that is recorded in violation of s.  
162 810.145 and is possessed for the purpose of amusement,  
163 entertainment, sexual arousal, gratification, or profit, or for  
164 the purpose of degrading or abusing another person.

165 11. Any real property, including any right, title,  
166 leasehold, or other interest in the whole of any lot or tract of  
167 land, which is acquired by proceeds obtained as a result of  
168 Medicaid fraud under s. 409.920 or s. 409.9201; any personal  
169 property, including, but not limited to, equipment, money,  
170 securities, books, records, research, negotiable instruments, or  
171 currency; or any vessel, aircraft, item, object, tool,  
172 substance, device, weapon, machine, or vehicle of any kind in  
173 the possession of or belonging to any person which is acquired  
174 by proceeds obtained as a result of Medicaid fraud under s.

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175 409.920 or s. 409.9201.

176 12. Any personal property, including, but not limited to,  
177 any vehicle of any kind, item, object, tool, device, weapon,  
178 machine, money, securities, books, or records, which is used or  
179 attempted to be used as an instrumentality in the commission of,  
180 or in aiding and abetting in the commission of, a person's third  
181 or subsequent violation of s. 509.144, whether or not comprising  
182 an element of the offense.

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

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