

1 A bill to be entitled
 2 An act relating to handbill distribution; amending s.
 3 509.144, F.S.; revising definitions; providing additional
 4 penalties; specifying that certain items are subject to
 5 seizure and forfeiture; amending s. 901.15, F.S.;
 6 authorizing a law enforcement officer to arrest a person
 7 without a warrant when there is probable cause to believe
 8 the person violated s. 509.144, and where the owner or
 9 manager of the public lodging establishment signs an
 10 affidavit containing information supporting the probable
 11 cause determination; amending s. 932.701, F.S.; revising
 12 the definition of the term "contraband;" providing an
 13 effective date.

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

16
 17 Section 1. Section 509.144, Florida Statutes, is amended
 18 to read:

19 509.144 Prohibited handbill distribution in a public
 20 lodging establishment; penalties.—

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

22 (a) "Handbill" means a flier, leaflet, pamphlet, or other
 23 written material that advertises, promotes, or informs persons
 24 about an individual, business, company, or food service
 25 establishment, but shall not include employee communications
 26 permissible under the National Labor Relations Act.

27 (b) "Without permission" means without the expressed
 28 written ~~or oral~~ permission of the owner, manager, or agent of

29 | the owner or manager of the public lodging establishment where a
 30 | sign is posted prohibiting advertising or solicitation in the
 31 | manner provided in subsection (4).

32 | (c) "At or in a public lodging establishment" means any
 33 | property under the sole ownership or control of a public lodging
 34 | establishment.

35 | (2) Any individual, agent, contractor, or volunteer who is
 36 | acting on behalf of an individual, business, company, or food
 37 | service establishment and who, without permission, delivers,
 38 | distributes, or places, or attempts to deliver, distribute, or
 39 | place, a handbill at or in a public lodging establishment
 40 | commits a misdemeanor of the first degree, punishable as
 41 | provided in s. 775.082 or s. 775.083.

42 | (3) Any person who, without permission, directs another
 43 | person to deliver, distribute, or place, or attempts to deliver,
 44 | distribute, or place, a handbill at or in a public lodging
 45 | establishment commits a misdemeanor of the first degree,
 46 | punishable as provided in s. 775.082 or s. 775.083. Any person
 47 | sentenced under this subsection shall be ordered to pay a
 48 | minimum fine of \$1,000 ~~\$500~~ in addition to any other penalty
 49 | imposed by the court.

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

52 | (a) A second time shall be ordered to pay a minimum fine of
 53 | \$2,000.

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

56 | (5)-(4) For purposes of this section, a public lodging

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57 establishment that intends to prohibit advertising or
58 solicitation, as described in this section, at or in such
59 establishment must comply with the following requirements when
60 posting a sign prohibiting such solicitation or advertising:

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

65 (b) The sign must be posted conspicuously.

66 (c) If the main office of the public lodging establishment
67 is immediately accessible by entering the office through a door
68 from a street, parking lot, grounds, or other area outside such
69 establishment, the sign must be placed on a part of the main
70 office, such as a door or window, and the sign must face the
71 street, parking lot, grounds, or other area outside such
72 establishment.

73 (d) If the main office of the public lodging establishment
74 is not immediately accessible by entering the office through a
75 door from a street, parking lot, grounds, or other area outside
76 such establishment, the sign must be placed in the immediate
77 vicinity of the main entrance to such establishment, and the
78 sign must face the street, parking lot, grounds, or other area
79 outside such establishment.

80 (6) Any personal property, including, but not limited to,
81 any vehicle of any kind, item, object, tool, device, weapon,
82 machine, money, securities, books, or records, which was used or
83 was attempted to be used as an instrumentality in the commission
84 of, or in aiding and abetting in the commission of, a person's

85 third or subsequent violation of this section, whether or not
 86 comprising an element of the offense, is subject to seizure and
 87 forfeiture under the Florida Contraband Forfeiture Act.

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

90 901.15 When arrest by officer without warrant is lawful.—A
 91 law enforcement officer may arrest a person without a warrant
 92 when:

93 (16) The officer has determined that he or she has probable
 94 cause to believe that a violation of s. 509.144 has been
 95 committed and where the owner or manager of the public lodging
 96 establishment in which the violation occurred signs an affidavit
 97 containing information that supports the officer's probable
 98 cause determination.

99 Section 3. Paragraph (a) of subsection (2) of section
 100 932.701, Florida Statutes, is amended to read:

101 932.701 Short title; definitions.—

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

103 (a) "Contraband article" means:

104 1. Any controlled substance as defined in chapter 893 or
 105 any substance, device, paraphernalia, or currency or other means
 106 of exchange that was used, was attempted to be used, or was
 107 intended to be used in violation of any provision of chapter
 108 893, if the totality of the facts presented by the state is
 109 clearly sufficient to meet the state's burden of establishing
 110 probable cause to believe that a nexus exists between the
 111 article seized and the narcotics activity, whether or not the
 112 use of the contraband article can be traced to a specific

113 narcotics transaction.

114 2. Any gambling paraphernalia, lottery tickets, money,
 115 currency, or other means of exchange which was used, was
 116 attempted, or intended to be used in violation of the gambling
 117 laws of the state.

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

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

123 5. Any personal property, including, but not limited to,
 124 any vessel, aircraft, item, object, tool, substance, device,
 125 weapon, machine, vehicle of any kind, money, securities, books,
 126 records, research, negotiable instruments, or currency, which
 127 was used or was attempted to be used as an instrumentality in
 128 the commission of, or in aiding or abetting in the commission
 129 of, any felony, whether or not comprising an element of the
 130 felony, or which is acquired by proceeds obtained as a result of
 131 a violation of the Florida Contraband Forfeiture Act.

132 6. Any real property, including any right, title,
 133 leasehold, or other interest in the whole of any lot or tract of
 134 land, which was used, is being used, or was attempted to be used
 135 as an instrumentality in the commission of, or in aiding or
 136 abetting in the commission of, any felony, or which is acquired
 137 by proceeds obtained as a result of a violation of the Florida
 138 Contraband Forfeiture Act.

139 7. Any personal property, including, but not limited to,
 140 equipment, money, securities, books, records, research,

141 negotiable instruments, currency, or any vessel, aircraft, item,
 142 object, tool, substance, device, weapon, machine, or vehicle of
 143 any kind in the possession of or belonging to any person who
 144 takes aquaculture products in violation of s. 812.014(2)(c).

145 8. Any motor vehicle offered for sale in violation of s.
 146 320.28.

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

149 10. Any photograph, film, or other recorded image,
 150 including an image recorded on videotape, a compact disc,
 151 digital tape, or fixed disk, that is recorded in violation of s.
 152 810.145 and is possessed for the purpose of amusement,
 153 entertainment, sexual arousal, gratification, or profit, or for
 154 the purpose of degrading or abusing another person.

155 11. Any real property, including any right, title,
 156 leasehold, or other interest in the whole of any lot or tract of
 157 land, which is acquired by proceeds obtained as a result of
 158 Medicaid fraud under s. 409.920 or s. 409.9201; any personal
 159 property, including, but not limited to, equipment, money,
 160 securities, books, records, research, negotiable instruments, or
 161 currency; or any vessel, aircraft, item, object, tool,
 162 substance, device, weapon, machine, or vehicle of any kind in
 163 the possession of or belonging to any person which is acquired
 164 by proceeds obtained as a result of Medicaid fraud under s.
 165 409.920 or s. 409.9201.

166 12. Any personal property, including, but not limited to,
 167 any vehicle of any kind, item, object, tool, device, weapon,
 168 machine, money, securities, books, or records, which was used or

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169 was attempted to be used as an instrumentality in the commission
170 of, or in aiding and abetting in the commission of, a person's
171 third or subsequent violation of s. 509.144, whether or not
172 comprising an element of the offense.

173 Section 4. This act shall take effect October 1, 2010.