

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB369                      Stolen Property Defense  
**SPONSOR(S):** Rep. Culp  
**TIED BILLS:** None                      **IDEN./SIM. BILLS:** SB 2008

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice (Sub)	4 Y, 3 N	Cole	De La Paz
2) Public Safety & Crime Prevention			
3) Judiciary			
4)			
5)			

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### SUMMARY ANALYSIS

The bill provides for a more definitive inference of guilt for possession of stolen property if an individual is found to have property with clearly identifiable ownership markings on it.

The bill also creates a defense to this presumption if the person that was found to have the property can show that they either contacted the potential owner if the ownership information was "decipherable," or contacted law enforcement if the ownership was not "decipherable," in an attempt to determine whether the property was stolen.

A strike-all amendment was adopted that says the used property dealer must maintain a written record of who they talked to, and when, to verify that they did actually call either the rental store or law enforcement.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h0369a.pscp.doc  
**DATE:** April 2, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |   |                             |   |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 5. Empower families?                 | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain: N/A

#### B. EFFECT OF PROPOSED CHANGES:

S. 812.016, F.S., currently makes it a first degree misdemeanor for a dealer in property to knowingly possess any type of property that has any type of identifying features (serial numbers and permanently affixed labels) that have been removed or altered without the consent of the manufacturer.

Dealing in stolen property is defined as "Any person who traffics in, or endeavors to traffic in, property that he or she knows or should know was stolen..." Section 812.019 (1), F.S., makes it a 2<sup>nd</sup> degree felony to deal in stolen property. Section 812.019 (2), F.S., makes it a 1<sup>st</sup> degree felony to organize, initiate, plan, finance, direct, etc. to steal property and traffic in stolen property.

Section 812.022, F.S., currently does not provide for a defense to dealing or possession of stolen property other than it's possession must be satisfactorily explained.

House Bill 369 provides for a more definitive inference of guilt for possession of stolen property if an individual is found to have property with clearly identifiable ownership markings on it.

The bill provides for a way to negate the inference of guilt of possession of stolen property provided in S. 812.022, F.S., by allowing the purchaser to either notify the potential owner as determined by any decipherable markings on the equipment, or if the markings are not decipherable, by notifying law enforcement and attempting to ascertain if the item(s) were misappropriated or stolen.

The strike-all amendment mandates that the used property dealer keep a written record of who they talked to and when, during the course of a pawn transaction.

#### C. SECTION DIRECTORY:

**Section 1:** Amends S. 812.022, F.S. as to inference of guilt and possible defense to possession of stolen property.

**Section 2:** Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: See Fiscal Comments.
2. Expenditures: N/A

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: N/A
2. Expenditures: N/A

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None

### D. FISCAL COMMENTS: There does not appear to be any negative fiscal impact to state or local governments.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: N/A
2. Other: N/A

### B. RULE-MAKING AUTHORITY: N/A

### C. DRAFTING ISSUES OR OTHER COMMENTS: N/A

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

**Amendment 1:** A strike-all amendment was adopted which provides that a used property dealer must keep a written record of who they talked to, and when, to be sufficient documentation that an attempt was made to insure that they were not purchasing stolen property.