

By Senator Aronberg

27-189A-04

1 A bill to be entitled
2 An act relating to video voyeurism; creating s.
3 810.145, F.S.; providing definitions;
4 prohibiting a person from secretly viewing,
5 recording, or broadcasting images of another
6 person for the purpose of entertainment, sexual
7 arousal, profit, or abuse when that other
8 person is in a location that provides a
9 reasonable expectation of privacy; prohibiting
10 a person from secretly filming, recording, or
11 broadcasting images of another person under or
12 through that other person's clothing for the
13 purpose of viewing that other person's body or
14 undergarments without consent of the person
15 viewed; prohibiting a person from disseminating
16 images when the person disseminating the images
17 knows that the images were recorded in
18 violation of law; prohibiting a person from
19 selling images to another for consideration
20 when the person selling the images knows that
21 the images were recorded in violation of law;
22 prohibiting a person from disseminating images
23 that were recorded in violation of law to
24 another person for that person to sell the
25 images to others; providing for certain
26 exceptions; providing criminal penalties;
27 defining a previous conviction or adjudication
28 of delinquency; amending s. 932.701, F.S.;
29 defining the term "contraband article" to
30 include any imaging equipment, format, or
31 device used in violation of law; amending s.

1 932.7055, F.S.; requiring agencies seizing
2 images of persons recorded in violation of law
3 to destroy the images; providing that the
4 seizing agency may not retain or sell the
5 images; amending s. 932.707, F.S.; conforming a
6 cross-reference; reenacting ss. 705.101(6) and
7 932.703(4), F.S., relating to definitions of
8 lost or abandoned property and the seizure of a
9 vessel, motor vehicle, aircraft, other personal
10 property, or real property in or on which a
11 contraband article is located, to incorporate
12 the amendment to s. 932.701, F.S., in
13 references thereto; providing an effective
14 date.

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

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18 Section 1. Section 810.145, Florida Statutes, is
19 created to read:

20 810.145 Video voyeurism.--

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

22 (a) "Broadcast" means electronically transmitting a
23 visual image with the intent that it be viewed by another
24 person.

25 (b) "Imaging device" means any mechanical, digital, or
26 electronic viewing device, still camera, camcorder, motion
27 picture camera, or any other instrument, equipment, or format
28 capable of recording, storing, or transmitting visual images
29 of another person.

30 (c) "Place and time when a person has a reasonable
31 expectation of privacy" means a place and time when a

1 reasonable person would believe that he or she could fully
2 disrobe in privacy, without being concerned that the person's
3 undressing was being viewed, recorded, or broadcasted by
4 another, including, but not limited to, the interior of a
5 bathroom, changing room, fitting room, dressing room, or
6 tanning booth.

7 (d) "Privately exposing the body" means exposing an
8 intimate part of the body, as defined in s. 800.03, which is
9 not exposed to public view.

10 (2) A person commits the offense of video voyeurism if
11 that person:

12 (a) For his or her own amusement, entertainment,
13 sexual arousal, gratification, or profit, or for the purpose
14 of degrading or abusing another person, intentionally uses or
15 installs an imaging device to secretly view, broadcast, or
16 record a person, without that person's knowledge or consent,
17 who is dressing, undressing, or privately exposing the body,
18 at a place and time when that person has a reasonable
19 expectation of privacy;

20 (b) For the amusement, entertainment, sexual arousal,
21 gratification, or profit of another, or on behalf of another,
22 intentionally permits the use or installation of an imaging
23 device to secretly view, broadcast, or record a person,
24 without that person's knowledge or consent, who is dressing,
25 undressing, or privately exposing the body, at a place and
26 time when that person has a reasonable expectation of privacy;
27 or

28 (c) For the amusement, entertainment, sexual arousal,
29 gratification, or profit of oneself or another, or on behalf
30 of oneself or another, intentionally uses an imaging device to
31 secretly view, broadcast, or record under or through the

1 clothing being worn by another person, without that person's
2 knowledge or consent, for the purpose of viewing the body of,
3 or the undergarments worn by, that person.

4 (3) A person commits the offense of video voyeurism
5 dissemination if that person, knowing that an image was
6 created in violation of this section, intentionally
7 disseminates, distributes, or transfers the image to another
8 person.

9 (4) A person commits the offense of commercial video
10 voyeurism dissemination if that person:

11 (a) Knowing that an image was created in violation of
12 this section, sells the image for consideration to another
13 person; or

14 (b) Having created the image in violation of this
15 section, disseminates, distributes, or transfers the image to
16 another person for that person to sell the image to others.

17 (5) This section does not apply to any:

18 (a) Law enforcement agency conducting surveillance for
19 a law enforcement purpose;

20 (b) Security system when a written notice is
21 conspicuously posted on the premises stating that a video
22 surveillance system has been installed for the purpose of
23 security for the premises; or

24 (c) Video surveillance device that is installed in
25 such a manner that the presence of the device is clearly and
26 immediately obvious.

27 (6) A person who violates this section commits a
28 misdemeanor of the first degree for the first violation,
29 punishable as provided in s. 775.082 or s. 775.083.

30 (7) A person who violates this section and who has
31 previously been convicted or adjudicated delinquent two or

1 more times of any violation of this section commits a felony
2 of the third degree, punishable as provided in s. 775.082, s.
3 775.083, or s. 775.084.

4 (8) For purposes of this section, a person has
5 previously been convicted of or adjudicated delinquent for a
6 violation of this section if the violation resulted in a
7 conviction that was sentenced separately, or an adjudication
8 of delinquency entered separately, prior to the current
9 offense.

10 Section 2. Paragraph (a) of subsection (2) of section
11 932.701, Florida Statutes, is amended to read:

12 932.701 Short title; definitions.--

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

14 (a) "Contraband article" means:

15 1. Any controlled substance as defined in chapter 893
16 or any substance, device, paraphernalia, or currency or other
17 means of exchange that was used, was attempted to be used, or
18 was intended to be used in violation of any provision of
19 chapter 893, if the totality of the facts presented by the
20 state is clearly sufficient to meet the state's burden of
21 establishing probable cause to believe that a nexus exists
22 between the article seized and the narcotics activity, whether
23 or not the use of the contraband article can be traced to a
24 specific narcotics transaction.

25 2. Any gambling paraphernalia, lottery tickets, money,
26 currency, or other means of exchange which was used, was
27 attempted, or intended to be used in violation of the gambling
28 laws of the state.

29 3. Any equipment, liquid or solid, which was being
30 used, is being used, was attempted to be used, or intended to

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1 be used in violation of the beverage or tobacco laws of the
2 state.

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

5 5. Any personal property, including, but not limited
6 to, any vessel, aircraft, item, object, tool, substance,
7 device, weapon, machine, vehicle of any kind, money,
8 securities, books, records, research, negotiable instruments,
9 or currency, which was used or was attempted to be used as an
10 instrumentality in the commission of, or in aiding or abetting
11 in the commission of, any felony, whether or not comprising an
12 element of the felony, or which is acquired by proceeds
13 obtained as a result of a violation of the Florida Contraband
14 Forfeiture Act.

15 6. Any real property, including any right, title,
16 leasehold, or other interest in the whole of any lot or tract
17 of land, which was used, is being used, or was attempted to be
18 used as an instrumentality in the commission of, or in aiding
19 or abetting in the commission of, any felony, or which is
20 acquired by proceeds obtained as a result of a violation of
21 the Florida Contraband Forfeiture Act.

22 7. Any personal property, including, but not limited
23 to, equipment, money, securities, books, records, research,
24 negotiable instruments, currency, or any vessel, aircraft,
25 item, object, tool, substance, device, weapon, machine, or
26 vehicle of any kind in the possession of or belonging to any
27 person who takes aquaculture products in violation of s.
28 812.014(2)(c).

29 8. Any motor vehicle offered for sale in violation of
30 s. 320.28.

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

3 10. Any personal property, including, but not limited
4 to, any imaging device, as defined in s. 810.145, photograph,
5 film, or other recorded image, including an image recorded on
6 videotape, a compact disk, digital tape, or fixed disk,
7 recorded in violation of s. 810.145.

8 Section 3. Present subsections (2) through (8) of
9 section 932.7055, Florida Statutes, are redesignated as
10 subsections (3) through (9), respectively, and a new
11 subsection (2) is added to that section, to read:

12 932.7055 Disposition of liens and forfeited
13 property.--

14 (2) Notwithstanding subsection (1), a seizing agency
15 must destroy any image and the medium on which the image is
16 recorded, including, but not limited to, a photograph, video
17 tape, diskette, compact disk, or fixed disk made in violation
18 of s. 810.145. The agency may not sell or retain any image.

19 Section 4. Section 932.707, Florida Statutes, is
20 amended to read:

21 932.707 Penalty for noncompliance with reporting
22 requirements.--Any seizing agency that ~~which~~ fails to comply
23 with the reporting requirements as described in s.
24 932.7055(9)(a)~~s. 932.7055(8)(a)~~, is subject to a civil fine
25 of \$5,000 payable to the General Revenue Fund. However, such
26 agency will not be subject to the fine if, within 60 days
27 after ~~of~~ receipt of written notification from the Department
28 of Law Enforcement of the noncompliance with the reporting
29 requirements of the Florida Contraband Forfeiture Act, the
30 agency substantially complies with those ~~said~~ requirements.
31 The Department of Law Enforcement shall submit any substantial

1 noncompliance to the Office of the Chief Financial Officer,
2 which shall be responsible for the enforcement of this
3 section.

4 Section 5. For the purpose of incorporating the
5 amendment made by this act to section 932.701, Florida
6 Statutes, in references thereto, subsection (6) of section
7 705.101, Florida Statutes, is reenacted to read:

8 705.101 Definitions.--As used in this chapter:

9 (6) "Unclaimed evidence" means any tangible personal
10 property, including cash, not included within the definition
11 of "contraband article," as provided in s. 932.701(2), which
12 was seized by a law enforcement agency, was intended for use
13 in a criminal or quasi-criminal proceeding, and is retained by
14 the law enforcement agency or the clerk of the county or
15 circuit court for 60 days after the final disposition of the
16 proceeding and to which no claim of ownership has been made.

17 Section 6. For the purpose of incorporating the
18 amendment made by this act to section 932.701, Florida
19 Statutes, in references thereto, subsection (4) of section
20 932.703, Florida Statutes, is reenacted to read:

21 932.703 Forfeiture of contraband article;
22 exceptions.--

23 (4) In any incident in which possession of any
24 contraband article defined in s. 932.701(2)(a) constitutes a
25 felony, the vessel, motor vehicle, aircraft, other personal
26 property, or real property in or on which such contraband
27 article is located at the time of seizure shall be contraband
28 subject to forfeiture. It shall be presumed in the manner
29 provided in s. 90.302(2) that the vessel, motor vehicle,
30 aircraft, other personal property, or real property in which
31 or on which such contraband article is located at the time of

1 seizure is being used or was attempted or intended to be used
2 in a manner to facilitate the transportation, carriage,
3 conveyance, concealment, receipt, possession, purchase, sale,
4 barter, exchange, or giving away of a contraband article
5 defined in s. 932.701(2).

6 Section 7. This act shall take effect July 1, 2004.

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9 SENATE SUMMARY

10 Prohibits a person from secretly viewing, recording, or
11 broadcasting images of another person for the purpose of
12 entertainment, sexual arousal, or profit when the other
13 person is in a location that provides a reasonable
14 expectation of privacy. Prohibits a person from secretly
15 filming, recording, or broadcasting images of another
16 person under or through that other person's clothing for
17 the purpose of viewing that other person's body or
18 undergarments without consent of the person viewed.
19 Forbids a person from disseminating images when the
20 person disseminating the images knows that the images
21 were recorded in violation of the law. Forbids a person
22 from selling images to another for consideration when the
23 person selling the images knows that the images were
24 recorded in violation of the law. Prohibits a person from
25 disseminating images that were recorded in violation of
26 the law to another person for that person to sell the
27 images to others. Provides for certain exceptions.
28 Provides criminal penalties. Defines a previous
29 conviction or adjudication of delinquency. Defines the
30 term "contraband article" to include any imaging device
31 used in violation of the law. Requires agencies seizing
images of persons recorded in violation of the law to
destroy the images. Provides that the seizing agency may
not retain or sell the images.

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