

By the Committee on Communication and Public Utilities; and
Senator Aronberg

319-1292-04

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:

17
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 a
8 sexual organ.

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

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

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

27 (c) For the amusement, entertainment, sexual arousal,
28 gratification, or profit of oneself or another, or on behalf
29 of oneself or another, intentionally uses an imaging device to
30 secretly view, broadcast, or record under or through the
31 clothing being worn by another person, without that person's

1 knowledge or consent, for the purpose of viewing the body of,
2 or the undergarments worn by, that person.

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

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

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

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

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

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

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

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

26 (d) The dissemination, distribution, or transfer of
27 images subject to this section by a provider of an electronic
28 communication service as defined in 18 U.S.C. s. 2510(15),
29 excluding the exceptions to the definitions of the term
30 "electronic communication" set forth in 18 U.S.C. s.
31

1 2510(12)(b) and (c), or a provider of a remote computing
2 service as defined in 18 U.S.C. s. 2711(2).

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

6 (7) A person who violates this section and who has
7 previously been convicted or adjudicated delinquent two or
8 more times of any violation of this section commits a felony
9 of the third degree, punishable as provided in s. 775.082, s.
10 775.083, or s. 775.084.

11 (8) For purposes of this section, a person has
12 previously been convicted of or adjudicated delinquent for a
13 violation of this section if the violation resulted in a
14 conviction that was sentenced separately, or an adjudication
15 of delinquency entered separately, prior to the current
16 offense.

17 Section 2. Paragraph (a) of subsection (2) of section
18 932.701, Florida Statutes, is amended to read:

19 932.701 Short title; definitions.--

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

21 (a) "Contraband article" means:

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

1 2. Any gambling paraphernalia, lottery tickets, money,
2 currency, or other means of exchange which was used, was
3 attempted, or intended to be used in violation of the gambling
4 laws of the state.

5 3. Any equipment, liquid or solid, which was being
6 used, is being used, was attempted to be used, or intended to
7 be used in violation of the beverage or tobacco laws of the
8 state.

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

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

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

28 7. Any personal property, including, but not limited
29 to, equipment, money, securities, books, records, research,
30 negotiable instruments, currency, or any vessel, aircraft,
31 item, object, tool, substance, device, weapon, machine, or

1 vehicle of any kind in the possession of or belonging to any
2 person who takes aquaculture products in violation of s.
3 812.014(2)(c).

4 8. Any motor vehicle offered for sale in violation of
5 s. 320.28.

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

8 10. Any personal property, including, but not limited
9 to, any imaging device, used in violation of s. 810.145,
10 photograph, film, or other recorded image, including an image
11 recorded on videotape, a compact disk, digital tape, or fixed
12 disk, recorded in violation of s. 810.145.

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

17 932.7055 Disposition of liens and forfeited
18 property.--

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

24 Section 4. Section 932.707, Florida Statutes, is
25 amended to read:

26 932.707 Penalty for noncompliance with reporting
27 requirements.--Any seizing agency that ~~which~~ fails to comply
28 with the reporting requirements as described in s.
29 932.7055(9)(a)~~s. 932.7055(8)(a)~~, is subject to a civil fine
30 of \$5,000 payable to the General Revenue Fund. However, such
31 agency will not be subject to the fine if, within 60 days

1 after ~~of~~ receipt of written notification from the Department
2 of Law Enforcement of the noncompliance with the reporting
3 requirements of the Florida Contraband Forfeiture Act, the
4 agency substantially complies with those ~~said~~ requirements.
5 The Department of Law Enforcement shall submit any substantial
6 noncompliance to the Office of the Chief Financial Officer,
7 which shall be responsible for the enforcement of this
8 section.

9 Section 5. For the purpose of incorporating the
10 amendment made by this act to section 932.701, Florida
11 Statutes, in references thereto, subsection (6) of section
12 705.101, Florida Statutes, is reenacted to read:

13 705.101 Definitions.--As used in this chapter:

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

22 Section 6. For the purpose of incorporating the
23 amendment made by this act to section 932.701, Florida
24 Statutes, in references thereto, subsection (4) of section
25 932.703, Florida Statutes, is reenacted to read:

26 932.703 Forfeiture of contraband article;
27 exceptions.--

28 (4) In any incident in which possession of any
29 contraband article defined in s. 932.701(2)(a) constitutes a
30 felony, the vessel, motor vehicle, aircraft, other personal
31 property, or real property in or on which such contraband

1 article is located at the time of seizure shall be contraband
2 subject to forfeiture. It shall be presumed in the manner
3 provided in s. 90.302(2) that the vessel, motor vehicle,
4 aircraft, other personal property, or real property in which
5 or on which such contraband article is located at the time of
6 seizure is being used or was attempted or intended to be used
7 in a manner to facilitate the transportation, carriage,
8 conveyance, concealment, receipt, possession, purchase, sale,
9 barter, exchange, or giving away of a contraband article
10 defined in s. 932.701(2).

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

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13 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
14 COMMITTEE SUBSTITUTE FOR
15 SB 284

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16 The CS for SB 284 provides an exemption from the video
17 voyeurism provisions for the dissemination, distribution, or
18 transfer of images subject to this section by a provider of an
19 electronic communication service. It also makes technical
20 changes.

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