

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 knowledge and consent of
15 the person viewed; prohibiting a person from
16 disseminating images when the person
17 disseminating the images knows or has reason to
18 believe that the images were recorded in
19 violation of law; prohibiting a person from
20 selling images to another for consideration
21 when the person selling the images knows or has
22 reason to believe that the images were recorded
23 in violation of law; prohibiting a person from
24 disseminating images that were recorded in
25 violation of law to another person for that
26 person to sell the images to others; providing
27 for certain exceptions; providing criminal
28 penalties; defining a previous conviction or
29 adjudication of delinquency; amending s.
30 932.701, F.S.; defining the term "contraband
31 article" to include any imaging equipment,

1 format, or device used in violation of law;
2 amending s. 932.7055, F.S.; requiring agencies
3 seizing images of persons recorded in violation
4 of law to destroy the images; providing that
5 the seizing agency may not retain or sell the
6 images; amending s. 932.707, F.S.; conforming a
7 cross-reference; reenacting ss. 705.101(6) and
8 932.703(4), F.S., relating to definitions of
9 lost or abandoned property and the seizure of a
10 vessel, motor vehicle, aircraft, other personal
11 property, or real property in or on which a
12 contraband article is located, to incorporate
13 the amendment to s. 932.701, F.S., in
14 references thereto; amending s. 877.26, F.S.;
15 providing a limited exception to a prohibition
16 against a merchant observing customers in
17 dressing, fitting, or changing rooms or
18 restrooms; providing an effective date.

19

20 Be It Enacted by the Legislature of the State of Florida:

21

22 Section 1. Section 810.145, Florida Statutes, is
23 created to read:24 810.145 Video voyeurism.--25 (1) As used in this section, the term:26 (a) "Broadcast" means electronically transmitting a
27 visual image with the intent that it be viewed by another
28 person.29 (b) "Imaging device" means any mechanical, digital, or
30 electronic viewing device, still camera, camcorder, motion
31 picture camera, or any other instrument, equipment, or format

1 capable of recording, storing, or transmitting visual images
2 of another person.

3 (c) "Place and time when a person has a reasonable
4 expectation of privacy" means a place and time when a
5 reasonable person would believe that he or she could fully
6 disrobe in privacy, without being concerned that the person's
7 undressing was being viewed, recorded, or broadcasted by
8 another, including, but not limited to, the interior of a
9 bathroom, changing room, fitting room, dressing room, or
10 tanning booth.

11 (d) "Privately exposing the body" means exposing a
12 sexual organ.

13 (2) A person commits the offense of video voyeurism if
14 that person:

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

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

31

1 (c) For the amusement, entertainment, sexual arousal,
2 gratification, or profit of oneself or another, or on behalf
3 of oneself or another, intentionally uses an imaging device to
4 secretly view, broadcast, or record under or through the
5 clothing being worn by another person, without that person's
6 knowledge and consent, for the purpose of viewing the body of,
7 or the undergarments worn by, that person.

8 (3) A person commits the offense of video voyeurism
9 dissemination if that person, knowing or having reason to
10 believe that an image was created in a manner described in
11 this section, intentionally disseminates, distributes, or
12 transfers the image to another person for the purpose of
13 amusement, entertainment, sexual arousal, gratification, or
14 profit, or for the purpose of degrading or abusing another
15 person.

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

18 (a) Knowing or having reason to believe that an image
19 was created in a manner described in this section, sells the
20 image for consideration to another person; or

21 (b) Having created the image in a manner described in
22 this section, disseminates, distributes, or transfers the
23 image to another person for that person to sell the image to
24 others.

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

26 (a) Law enforcement agency conducting surveillance for
27 a law enforcement purpose;

28 (b) Security system when a written notice is
29 conspicuously posted on the premises stating that a video
30 surveillance system has been installed for the purpose of
31 security for the premises;

1 (c) Video surveillance device that is installed in
2 such a manner that the presence of the device is clearly and
3 immediately obvious; or

4 (d) Dissemination, distribution, or transfer of images
5 subject to this section by a provider of an electronic
6 communication service as defined in 18 U.S.C. s. 2510(15), or
7 a provider of a remote computing service as defined in 18
8 U.S.C. s. 2711(2). For purposes of this section, the
9 exceptions to the definition of "electronic communication" set
10 forth in 18 U.S.C. s. 2510(12)(a), (b), (c), and (d) do not
11 apply, but are included within the definition of the term.

12 (6) Except as provided in subsection (7), a person who
13 violates this section commits a misdemeanor of the first
14 degree, punishable as provided in s. 775.082 or s. 775.083.

15 (7) A person who violates this section and who has
16 previously been convicted of or adjudicated delinquent for any
17 violation of this section commits a felony of the third
18 degree, punishable as provided in s. 775.082, s. 775.083, or
19 s. 775.084.

20 (8) For purposes of this section, a person has
21 previously been convicted of or adjudicated delinquent for a
22 violation of this section if the violation resulted in a
23 conviction that was sentenced separately, or an adjudication
24 of delinquency entered separately, prior to the current
25 offense.

26 Section 2. Paragraph (a) of subsection (2) of section
27 932.701, Florida Statutes, is amended to read:

28 932.701 Short title; definitions.--

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

30 (a) "Contraband article" means:
31

1 1. Any controlled substance as defined in chapter 893
2 or any substance, device, paraphernalia, or currency or other
3 means of exchange that was used, was attempted to be used, or
4 was intended to be used in violation of any provision of
5 chapter 893, if the totality of the facts presented by the
6 state is clearly sufficient to meet the state's burden of
7 establishing probable cause to believe that a nexus exists
8 between the article seized and the narcotics activity, whether
9 or not the use of the contraband article can be traced to a
10 specific narcotics transaction.

11 2. Any gambling paraphernalia, lottery tickets, money,
12 currency, or other means of exchange which was used, was
13 attempted, or intended to be used in violation of the gambling
14 laws of the state.

15 3. Any equipment, liquid or solid, which was being
16 used, is being used, was attempted to be used, or intended to
17 be used in violation of the beverage or tobacco laws of the
18 state.

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

21 5. Any personal property, including, but not limited
22 to, any vessel, aircraft, item, object, tool, substance,
23 device, weapon, machine, vehicle of any kind, money,
24 securities, books, records, research, negotiable instruments,
25 or currency, which was used or was attempted to be used as an
26 instrumentality in the commission of, or in aiding or abetting
27 in the commission of, any felony, whether or not comprising an
28 element of the felony, or which is acquired by proceeds
29 obtained as a result of a violation of the Florida Contraband
30 Forfeiture Act.

31

1 6. Any real property, including any right, title,
2 leasehold, or other interest in the whole of any lot or tract
3 of land, which was used, is being used, or was attempted to be
4 used as an instrumentality in the commission of, or in aiding
5 or abetting in the commission of, any felony, or which is
6 acquired by proceeds obtained as a result of a violation of
7 the Florida Contraband Forfeiture Act.

8 7. Any personal property, including, but not limited
9 to, equipment, money, securities, books, records, research,
10 negotiable instruments, currency, or any vessel, aircraft,
11 item, object, tool, substance, device, weapon, machine, or
12 vehicle of any kind in the possession of or belonging to any
13 person who takes aquaculture products in violation of s.
14 812.014(2)(c).

15 8. Any motor vehicle offered for sale in violation of
16 s. 320.28.

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

19 10. Any photograph, film, or other recorded image,
20 including an image recorded on videotape, a compact disc,
21 digital tape, or fixed disk, that is recorded in violation of
22 s. 810.145 and is possessed for the purpose of amusement,
23 entertainment, sexual arousal, gratification, or profit, or
24 for the purpose of degrading or abusing another person.

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

29 932.7055 Disposition of liens and forfeited
30 property.--

31

1 (2) Notwithstanding subsection (1), a seizing agency
2 must destroy any image and the medium on which the image is
3 recorded, including, but not limited to, a photograph, video
4 tape, diskette, compact disc, or fixed disk made in violation
5 of s. 810.145 when the image and the medium on which it is
6 recorded is no longer needed for an official purpose. The
7 agency may not sell or retain any image.

8 Section 4. Section 932.707, Florida Statutes, is
9 amended to read:

10 932.707 Penalty for noncompliance with reporting
11 requirements.--Any seizing agency that ~~which~~ fails to comply
12 with the reporting requirements as described in s.
13 932.7055(9)(a)~~s. 932.7055(8)(a)~~, is subject to a civil fine
14 of \$5,000 payable to the General Revenue Fund. However, such
15 agency will not be subject to the fine if, within 60 days
16 after ~~of~~ receipt of written notification from the Department
17 of Law Enforcement of the noncompliance with the reporting
18 requirements of the Florida Contraband Forfeiture Act, the
19 agency substantially complies with those ~~said~~ requirements.
20 The Department of Law Enforcement shall submit any substantial
21 noncompliance to the Office of the Chief Financial Officer,
22 which shall be responsible for the enforcement of this
23 section.

24 Section 5. For the purpose of incorporating the
25 amendment made by this act to section 932.701, Florida
26 Statutes, in references thereto, subsection (6) of section
27 705.101, Florida Statutes, is reenacted to read:

28 705.101 Definitions.--As used in this chapter:

29 (6) "Unclaimed evidence" means any tangible personal
30 property, including cash, not included within the definition
31 of "contraband article," as provided in s. 932.701(2), which

1 was seized by a law enforcement agency, was intended for use
2 in a criminal or quasi-criminal proceeding, and is retained by
3 the law enforcement agency or the clerk of the county or
4 circuit court for 60 days after the final disposition of the
5 proceeding and to which no claim of ownership has been made.

6 Section 6. For the purpose of incorporating the
7 amendment made by this act to section 932.701, Florida
8 Statutes, in references thereto, subsection (4) of section
9 932.703, Florida Statutes, is reenacted to read:

10 932.703 Forfeiture of contraband article;
11 exceptions.--

12 (4) In any incident in which possession of any
13 contraband article defined in s. 932.701(2)(a) constitutes a
14 felony, the vessel, motor vehicle, aircraft, other personal
15 property, or real property in or on which such contraband
16 article is located at the time of seizure shall be contraband
17 subject to forfeiture. It shall be presumed in the manner
18 provided in s. 90.302(2) that the vessel, motor vehicle,
19 aircraft, other personal property, or real property in which
20 or on which such contraband article is located at the time of
21 seizure is being used or was attempted or intended to be used
22 in a manner to facilitate the transportation, carriage,
23 conveyance, concealment, receipt, possession, purchase, sale,
24 barter, exchange, or giving away of a contraband article
25 defined in s. 932.701(2).

26 Section 7. Section 877.26, Florida Statutes, is
27 amended to read:

28 877.26 Direct observation, videotaping, or visual
29 surveillance of customers in merchant's dressing room, etc.,
30 prohibited; penalties.--

31

1 (1) It is unlawful for any merchant to directly
2 observe or make use of video cameras or other visual
3 surveillance devices to observe or record customers in the
4 merchant's dressing room, fitting room, changing room, or
5 restroom when such room provides a reasonable expectation of
6 privacy. However, a merchant may directly observe a customer
7 from outside such room if the observation is within the scope
8 of the merchant's duties and the observation does not
9 otherwise violate s. 810.14 or s. 810.145 or if the customer
10 invites or consents to the presence of the merchant in the
11 room.

12 (2) As used in this subsection, the term "merchant"
13 means an owner or operator, or the agent, consignee, employee,
14 lessee, or officer of an owner or operator, of any premises or
15 apparatus used for retail purchase or sale of any merchandise.

16 ~~(3)(2)~~ Any merchant who violates subsection (1)
17 commits ~~is guilty of~~ a misdemeanor of the first degree,
18 punishable as provided in s. 775.082 or s. 775.083.

19 Section 8. This act shall take effect July 1, 2004.
20
21
22
23
24
25
26
27
28
29
30
31