

HB 7173

2010

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

17  
 18 Be It Enacted by the Legislature of the State of Florida:

19  
 20           Section 1. Section 509.144, Florida Statutes, is amended  
 21 to read:

22           509.144 Prohibited handbill distribution in a public  
 23 lodging establishment; penalties.—

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

25           (a) "Handbill" means a flier, leaflet, pamphlet, or other  
 26 written material that advertises, promotes, or informs persons  
 27 about an individual, business, company, or food service  
 28 establishment, but shall not include employee communications

29 | permissible under the National Labor Relations Act.

30 | (b) "Without permission" means without the expressed  
 31 | written ~~or oral~~ permission of the owner, manager, or agent of  
 32 | the owner or manager of the public lodging establishment where a  
 33 | sign is posted prohibiting advertising or solicitation in the  
 34 | manner provided in subsection (5) ~~(4)~~.

35 | (c) "At or in a public lodging establishment" means any  
 36 | property under the sole ownership or control of a public lodging  
 37 | establishment.

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

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

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

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

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

59 (5)-(4) For purposes of this section, a public lodging  
 60 establishment that intends to prohibit advertising or  
 61 solicitation, as described in this section, at or in such  
 62 establishment must comply with the following requirements when  
 63 posting a sign prohibiting such solicitation or advertising:

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

68 (b) The sign must be posted conspicuously.

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

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

83 (6) Any personal property, including, but not limited to,  
 84 any vehicle of any kind, item, object, tool, device, weapon,

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85 machine, money, securities, books, or records, which was used or  
 86 was attempted to be used as an instrumentality in the commission  
 87 of, or in aiding and abetting in the commission of, a person's  
 88 third or subsequent violation of this section, regardless of  
 89 whether the usage or attempted usage comprised an element of the  
 90 offense, is subject to seizure and forfeiture under the Florida  
 91 Contraband Forfeiture Act.

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

94 901.15 When arrest by officer without warrant is lawful.—A  
 95 law enforcement officer may arrest a person without a warrant  
 96 when:

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

103 Section 3. Paragraph (a) of subsection (2) of section  
 104 932.701, Florida Statutes, is amended to read:

105 932.701 Short title; definitions.—

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

107 (a) "Contraband article" means:

108 1. Any controlled substance as defined in chapter 893 or  
 109 any substance, device, paraphernalia, or currency or other means  
 110 of exchange that was used, was attempted to be used, or was  
 111 intended to be used in violation of any provision of chapter  
 112 893, if the totality of the facts presented by the state is

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113 clearly sufficient to meet the state's burden of establishing  
114 probable cause to believe that a nexus exists between the  
115 article seized and the narcotics activity, whether or not the  
116 use of the contraband article can be traced to a specific  
117 narcotics transaction.

118 2. Any gambling paraphernalia, lottery tickets, money,  
119 currency, or other means of exchange which was used, was  
120 attempted, or intended to be used in violation of the gambling  
121 laws of the state.

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

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

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

136 6. Any real property, including any right, title,  
137 leasehold, or other interest in the whole of any lot or tract of  
138 land, which was used, is being used, or was attempted to be used  
139 as an instrumentality in the commission of, or in aiding or  
140 abetting in the commission of, any felony, or which is acquired

141 by proceeds obtained as a result of a violation of the Florida  
 142 Contraband Forfeiture Act.

143 7. Any personal property, including, but not limited to,  
 144 equipment, money, securities, books, records, research,  
 145 negotiable instruments, currency, or any vessel, aircraft, item,  
 146 object, tool, substance, device, weapon, machine, or vehicle of  
 147 any kind in the possession of or belonging to any person who  
 148 takes aquaculture products in violation of s. 812.014(2)(c).

149 8. Any motor vehicle offered for sale in violation of s.  
 150 320.28.

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

153 10. Any photograph, film, or other recorded image,  
 154 including an image recorded on videotape, a compact disc,  
 155 digital tape, or fixed disk, that is recorded in violation of s.  
 156 810.145 and is possessed for the purpose of amusement,  
 157 entertainment, sexual arousal, gratification, or profit, or for  
 158 the purpose of degrading or abusing another person.

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

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169 409.920 or s. 409.9201.

170 12. Any personal property, including, but not limited to,  
171 any vehicle of any kind, item, object, tool, device, weapon,  
172 machine, money, securities, books, or records, which was used or  
173 was attempted to be used as an instrumentality in the commission  
174 of, or in aiding and abetting in the commission of, a person's  
175 third or subsequent violation of s. 509.144, regardless of  
176 whether the usage or attempted usage comprised an element of the  
177 offense.

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