

By Senator Altman

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1 A bill to be entitled
2 An act relating to handbill distribution; providing a
3 short title; amending s. 509.144, F.S.; revising
4 definitions; providing additional penalties for the
5 offense of unlawfully distributing handbills in a
6 public lodging establishment; specifying that certain
7 items used in committing such offense are subject to
8 seizure and forfeiture under the Florida Contraband
9 Forfeiture Act; amending s. 901.15, F.S.; authorizing
10 a law enforcement officer to arrest a person without a
11 warrant when there is probable cause to believe the
12 person violated s. 509.144, F.S., and where the owner
13 or manager of the public lodging establishment signs
14 an affidavit containing information supporting the
15 determination of probable cause; amending s. 932.701,
16 F.S.; revising the definition of the term
17 "contraband"; providing that the terms and provisions
18 of the act do not affect or impede the provisions of a
19 specified state statute or any protection or right
20 guaranteed by the Second Amendment to the United
21 States Constitution; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

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25 Section 1. This act may be cited as the "Tourist Safety
26 Act."

27 Section 2. Section 509.144, Florida Statutes, is amended to
28 read:

29 509.144 Prohibited handbill distribution in a public

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30 lodging establishment; penalties.-

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

32 (a) "Handbill" means a flier, leaflet, pamphlet, or other
33 written material that advertises, promotes, or informs persons
34 about an individual, business, company, or food service
35 establishment, but does ~~shall~~ not include employee
36 communications permissible under the National Labor Relations
37 Act or other communication protected by the First Amendment to
38 the United States Constitution.

39 (b) "Without permission" means without the expressed
40 written ~~or oral~~ permission of the owner, manager, or agent of
41 the owner or manager of the public lodging establishment where a
42 sign is posted prohibiting advertising or solicitation in the
43 manner provided in subsection (5) ~~(4)~~.

44 (c) "At or in a public lodging establishment" means any
45 property under the sole ownership or control of a public lodging
46 establishment.

47 (2) Any person ~~individual~~, agent, contractor, or volunteer
48 who is acting on behalf of a person ~~an individual~~, business,
49 company, or food service establishment and who, without
50 permission, delivers, distributes, or places, or attempts to
51 deliver, distribute, or place, a handbill at or in a public
52 lodging establishment commits a misdemeanor of the first degree,
53 punishable as provided in s. 775.082 or s. 775.083.

54 (3) Any person who, without permission, directs another
55 person to deliver, distribute, or place, or attempts to deliver,
56 distribute, or place, a handbill at or in a public lodging
57 establishment commits a misdemeanor of the first degree,
58 punishable as provided in s. 775.082 or s. 775.083. Any person

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59 sentenced under this subsection shall be ordered to pay a
60 minimum fine of \$1,000 ~~\$500~~ in addition to any other penalty
61 imposed by the court.

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

64 (a) A second time shall be ordered to pay a minimum fine of
65 \$2,000.

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

68 (5)~~(4)~~ For purposes of this section, a public lodging
69 establishment that intends to prohibit advertising or
70 solicitation, as described in this section, at or in such
71 establishment must comply with the following requirements when
72 posting a sign prohibiting such solicitation or advertising:

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

77 (b) The sign must be posted conspicuously.

78 (c) If the main office of the public lodging establishment
79 is immediately accessible by entering the office through a door
80 from a street, parking lot, grounds, or other area outside such
81 establishment, the sign must be placed on a part of the main
82 office, such as a door or window, and the sign must face the
83 street, parking lot, grounds, or other area outside such
84 establishment.

85 (d) If the main office of the public lodging establishment
86 is not immediately accessible by entering the office through a
87 door from a street, parking lot, grounds, or other area outside

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88 such establishment, the sign must be placed in the immediate
89 vicinity of the main entrance to such establishment, and the
90 sign must face the street, parking lot, grounds, or other area
91 outside such establishment.

92 (6) Any personal property, including, but not limited to,
93 any vehicle of any kind, item, object, tool, device, weapon,
94 machine, money, securities, books, or records, which is used or
95 attempted to be used as an instrumentality in the commission of,
96 or in aiding and abetting in the commission of, a person's third
97 or subsequent violation of this section, whether or not
98 comprising an element of the offense, is subject to seizure and
99 forfeiture under the Florida Contraband Forfeiture Act.

100 Section 3. Subsection (16) is added to section 901.15,
101 Florida Statutes, to read:

102 901.15 When arrest by officer without warrant is lawful.—A
103 law enforcement officer may arrest a person without a warrant
104 when:

105 (16) The officer has determined that he or she has probable
106 cause to believe that a violation of s. 509.144 has been
107 committed and where the owner or manager of the public lodging
108 establishment in which the violation occurred signs an affidavit
109 containing information that supports the officer's determination
110 of probable cause.

111 Section 4. Paragraph (a) of subsection (2) of section
112 932.701, Florida Statutes, is amended to read:

113 932.701 Short title; definitions.—

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

115 (a) "Contraband article" means:

116 1. Any controlled substance as defined in chapter 893 or

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117 any substance, device, paraphernalia, or currency or other means
118 of exchange that was used, was attempted to be used, or was
119 intended to be used in violation of any provision of chapter
120 893, if the totality of the facts presented by the state is
121 clearly sufficient to meet the state's burden of establishing
122 probable cause to believe that a nexus exists between the
123 article seized and the narcotics activity, whether or not the
124 use of the contraband article can be traced to a specific
125 narcotics transaction.

126 2. Any gambling paraphernalia, lottery tickets, money,
127 currency, or other means of exchange which was used, was
128 attempted, or intended to be used in violation of the gambling
129 laws of the state.

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

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

135 5. Any personal property, including, but not limited to,
136 any vessel, aircraft, item, object, tool, substance, device,
137 weapon, machine, vehicle of any kind, money, securities, books,
138 records, research, negotiable instruments, or currency, which
139 was used or was attempted to be used as an instrumentality in
140 the commission of, or in aiding or abetting in the commission
141 of, any felony, whether or not comprising an element of the
142 felony, or which is acquired by proceeds obtained as a result of
143 a violation of the Florida Contraband Forfeiture Act.

144 6. Any real property, including any right, title,
145 leasehold, or other interest in the whole of any lot or tract of

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146 land, which was used, is being used, or was attempted to be used
147 as an instrumentality in the commission of, or in aiding or
148 abetting in the commission of, any felony, or which is acquired
149 by proceeds obtained as a result of a violation of the Florida
150 Contraband Forfeiture Act.

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

157 8. Any motor vehicle offered for sale in violation of s.
158 320.28.

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

161 10. Any photograph, film, or other recorded image,
162 including an image recorded on videotape, a compact disc,
163 digital tape, or fixed disk, that is recorded in violation of s.
164 810.145 and is possessed for the purpose of amusement,
165 entertainment, sexual arousal, gratification, or profit, or for
166 the purpose of degrading or abusing another person.

167 11. Any real property, including any right, title,
168 leasehold, or other interest in the whole of any lot or tract of
169 land, which is acquired by proceeds obtained as a result of
170 Medicaid fraud under s. 409.920 or s. 409.9201; any personal
171 property, including, but not limited to, equipment, money,
172 securities, books, records, research, negotiable instruments, or
173 currency; or any vessel, aircraft, item, object, tool,
174 substance, device, weapon, machine, or vehicle of any kind in

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175 the possession of or belonging to any person which is acquired
176 by proceeds obtained as a result of Medicaid fraud under s.
177 409.920 or s. 409.9201.

178 12. Any personal property, including, but not limited to,
179 any vehicle of any kind, item, object, tool, device, weapon,
180 machine, money, securities, books, or records, which is used or
181 attempted to be used as an instrumentality in the commission of,
182 or in aiding and abetting in the commission of, a person's third
183 or subsequent violation of s. 509.144, whether or not comprising
184 an element of the offense.

185 Section 5. The terms and provisions of the act do not
186 affect or impede the provisions of s. 790.251, Florida Statutes,
187 or any other protection or right guaranteed by the Second
188 Amendment to the United States Constitution.

189 Section 6. This act shall take effect October 1, 2011.