



201980

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
05/18/2011	.	
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The Committee on Judiciary (Simmons) recommended the following:

Senate Amendment (with title amendment)

Between lines 264 and 265
insert:

Section 10. Sections 11 through 14 of this act may be cited as the "Tourist Safety Act."

Section 11. Section 509.144, Florida Statutes, is amended to read:

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

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

(a) "Handbill" means a flier, leaflet, pamphlet, or other written material that advertises, promotes, or informs persons



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14 about a person ~~an individual~~, business, company, or food service
15 establishment, but does ~~shall~~ not include employee
16 communications permissible under the National Labor Relations
17 Act, other communications protected by the First Amendment to
18 the United States Constitution, or communications that relate to
19 the public health, safety, or welfare and that are distributed
20 by a federal, state, or local governmental entity or a public or
21 private utility.

22 (b) "Without permission" means without the expressed
23 written ~~or oral~~ permission of the owner, manager, or agent of
24 the owner or manager of the public lodging establishment where a
25 sign is posted prohibiting advertising or solicitation in the
26 manner provided in subsection (5) ~~(4)~~.

27 (c) "At or in a public lodging establishment" means any
28 property under the sole ownership or control of a public lodging
29 establishment.

30 (2) Any person ~~individual~~, agent, contractor, or volunteer
31 who is acting on behalf of a person ~~an individual~~, business,
32 company, or food service establishment and who, without
33 permission, delivers, distributes, or places, or attempts to
34 deliver, distribute, or place, a handbill at or in a public
35 lodging establishment commits a misdemeanor of the first degree,
36 punishable as provided in s. 775.082 or s. 775.083.

37 (3) Any person who, without permission, directs another
38 person to deliver, distribute, or place, or attempts to deliver,
39 distribute, or place, a handbill at or in a public lodging
40 establishment commits a misdemeanor of the first degree,
41 punishable as provided in s. 775.082 or s. 775.083. Any person
42 sentenced under this subsection shall be ordered to pay a



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43 minimum fine of \$500 in addition to any other penalty imposed by
44 the court.

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

47 (a) A second time shall be ordered to pay a minimum fine of
48 \$2,000.

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

51 (5)~~(4)~~ For purposes of this section, a public lodging
52 establishment that intends to prohibit advertising or
53 solicitation, as described in this section, at or in such
54 establishment must comply with the following requirements when
55 posting a sign prohibiting such solicitation or advertising:

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

60 (b) The sign must be posted conspicuously.

61 (c) If the main office of the public lodging establishment
62 is immediately accessible by entering the office through a door
63 from a street, parking lot, grounds, or other area outside such
64 establishment, the sign must be placed on a part of the main
65 office, such as a door or window, and the sign must face the
66 street, parking lot, grounds, or other area outside such
67 establishment.

68 (d) If the main office of the public lodging establishment
69 is not immediately accessible by entering the office through a
70 door from a street, parking lot, grounds, or other area outside
71 such establishment, the sign must be placed in the immediate



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72 vicinity of the main entrance to such establishment, and the
73 sign must face the street, parking lot, grounds, or other area
74 outside such establishment.

75 (6) Any personal property, including, but not limited to,
76 any vehicle of any kind, item, object, tool, device, weapon,
77 machine, money, security, book, or record, which is used or
78 attempted to be used as an instrumentality in the commission of,
79 or in aiding and abetting in the commission of, a person's third
80 or subsequent violation of this section, whether or not
81 comprising an element of the offense, is subject to seizure and
82 forfeiture under the Florida Contraband Forfeiture Act.

83 Section 12. Section 901.1503, Florida Statutes, is created
84 to read:

85 901.1503 When notice to appear by officer without warrant
86 is lawful.—A law enforcement officer may give a notice to appear
87 to a person without a warrant when the officer has determined
88 that he or she has probable cause to believe that a violation of
89 s. 509.144 has been committed and the owner or manager of the
90 public lodging establishment in which the violation occurred
91 signs an affidavit containing information that supports the
92 officer's determination of probable cause.

93 Section 13. Paragraph (a) of subsection (2) of section
94 932.701, Florida Statutes, is amended to read:

95 932.701 Short title; definitions.—

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

97 (a) "Contraband article" means:

98 1. Any controlled substance as defined in chapter 893 or
99 any substance, device, paraphernalia, or currency or other means
100 of exchange that was used, was attempted to be used, or was



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101 intended to be used in violation of any provision of chapter
102 893, if the totality of the facts presented by the state is
103 clearly sufficient to meet the state's burden of establishing
104 probable cause to believe that a nexus exists between the
105 article seized and the narcotics activity, whether or not the
106 use of the contraband article can be traced to a specific
107 narcotics transaction.

108 2. Any gambling paraphernalia, lottery tickets, money,
109 currency, or other means of exchange which was used, was
110 attempted, or intended to be used in violation of the gambling
111 laws of the state.

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

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

117 5. Any personal property, including, but not limited to,
118 any vessel, aircraft, item, object, tool, substance, device,
119 weapon, machine, vehicle of any kind, money, securities, books,
120 records, research, negotiable instruments, or currency, which
121 was used or was attempted to be used as an instrumentality in
122 the commission of, or in aiding or abetting in the commission
123 of, any felony, whether or not comprising an element of the
124 felony, or which is acquired by proceeds obtained as a result of
125 a violation of the Florida Contraband Forfeiture Act.

126 6. Any real property, including any right, title,
127 leasehold, or other interest in the whole of any lot or tract of
128 land, which was used, is being used, or was attempted to be used
129 as an instrumentality in the commission of, or in aiding or



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130 abetting in the commission of, any felony, or which is acquired
131 by proceeds obtained as a result of a violation of the Florida
132 Contraband Forfeiture Act.

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

139 8. Any motor vehicle offered for sale in violation of s.
140 320.28.

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

143 10. Any photograph, film, or other recorded image,
144 including an image recorded on videotape, a compact disc,
145 digital tape, or fixed disk, that is recorded in violation of s.
146 810.145 and is possessed for the purpose of amusement,
147 entertainment, sexual arousal, gratification, or profit, or for
148 the purpose of degrading or abusing another person.

149 11. Any real property, including any right, title,
150 leasehold, or other interest in the whole of any lot or tract of
151 land, which is acquired by proceeds obtained as a result of
152 Medicaid fraud under s. 409.920 or s. 409.9201; any personal
153 property, including, but not limited to, equipment, money,
154 securities, books, records, research, negotiable instruments, or
155 currency; or any vessel, aircraft, item, object, tool,
156 substance, device, weapon, machine, or vehicle of any kind in
157 the possession of or belonging to any person which is acquired
158 by proceeds obtained as a result of Medicaid fraud under s.



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159 409.920 or s. 409.9201.

160 12. Any personal property, including, but not limited to,
161 any vehicle of any kind, item, object, tool, device, weapon,
162 machine, money, security, book, or record, which is used or
163 attempted to be used as an instrumentality in the commission of,
164 or in aiding and abetting in the commission of, a person's third
165 or subsequent violation of s. 509.144, whether or not comprising
166 an element of the offense.

167 Section 14. The amendments to ss. 509.144 and 932.701,
168 Florida Statutes, and the creation of s. 901.1503, Florida
169 Statutes, by this act do not affect or impede the provisions of
170 s. 790.251, Florida Statutes, or any other protection or right
171 guaranteed by the Second Amendment to the United States
172 Constitution.

173
174 ===== T I T L E A M E N D M E N T =====

175 And the title is amended as follows:

176 Delete line 23

177 and insert:

178 changes made by the act; providing a short title;
179 amending s. 509.144, F.S.; revising the definition of
180 the term "handbill"; providing additional penalties
181 for the offense of unlawfully distributing handbills
182 in a public lodging establishment; specifying that
183 certain items used in committing such offense are
184 subject to seizure and forfeiture under the Florida
185 Contraband Forfeiture Act; creating s. 901.1503, F.S.;
186 authorizing a law enforcement officer to give a notice
187 to appear to a person without a warrant when there is



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188 probable cause to believe the person violated s.
189 509.144, F.S., and the owner or manager of the public
190 lodging establishment signs an affidavit containing
191 information supporting the determination of probable
192 cause; amending s. 932.701, F.S.; revising the
193 definition of the term "contraband article"; providing
194 that specified portions of the act do not affect or
195 impede specified statutory provisions or any
196 protection or right guaranteed by the Second Amendment
197 to the United States Constitution; providing an
198 effective date.