

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 public
 6 lodging establishment; specifying that certain items used
 7 in committing such offense are subject to seizure and
 8 forfeiture under the Florida Contraband Forfeiture Act;
 9 amending s. 901.15, F.S.; authorizing a law enforcement
 10 officer to arrest a person without a warrant when there is
 11 probable cause to believe the person violated s. 509.144,
 12 F.S., and the owner or manager of the public lodging
 13 establishment signs an affidavit containing information
 14 supporting the determination of probable cause; amending
 15 s. 932.701, F.S.; revising the definition of the term
 16 "contraband"; providing that this act does not affect or
 17 impede the provisions of a specified state statute or any
 18 protection or right guaranteed by the Second Amendment to
 19 the United States Constitution; providing an effective
 20 date.

21
 22 Be It Enacted by the Legislature of the State of Florida:

23
 24 Section 1. This act may be cited as the "Tourist Safety
 25 Act of 2011."

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

28 509.144 Prohibited handbill distribution in a public

29 lodging establishment; penalties.—

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

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

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

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

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

53 (3) Any person who, without permission, directs another
 54 person to deliver, distribute, or place, or attempts to deliver,
 55 distribute, or place, a handbill at or in a public lodging
 56 establishment commits a misdemeanor of the first degree,

HB 63

2011

57 | punishable as provided in s. 775.082 or s. 775.083. Any person
58 | sentenced under this subsection shall be ordered to pay a
59 | minimum fine of \$1,000 ~~\$500~~ in addition to any other penalty
60 | imposed by the court.

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

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

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

67 | (5) ~~(4)~~ For purposes of this section, a public lodging
68 | establishment that intends to prohibit advertising or
69 | solicitation, as described in this section, at or in such
70 | establishment must comply with the following requirements when
71 | posting a sign prohibiting such solicitation or advertising:

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

76 | (b) The sign must be posted conspicuously.

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

84 | (d) If the main office of the public lodging establishment

HB 63

2011

85 is not immediately accessible by entering the office through a
 86 door from a street, parking lot, grounds, or other area outside
 87 such establishment, the sign must be placed in the immediate
 88 vicinity of the main entrance to such establishment, and the
 89 sign must face the street, parking lot, grounds, or other area
 90 outside such establishment.

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

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

101 901.15 When arrest by officer without warrant is lawful.—A
 102 law enforcement officer may arrest a person without a warrant
 103 when:

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

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

112 932.701 Short title; definitions.—

HB 63

2011

113 (2) As used in the Florida Contraband Forfeiture Act:
 114 (a) "Contraband article" means:
 115 1. Any controlled substance as defined in chapter 893 or
 116 any substance, device, paraphernalia, or currency or other means
 117 of exchange that was used, was attempted to be used, or was
 118 intended to be used in violation of any provision of chapter
 119 893, if the totality of the facts presented by the state is
 120 clearly sufficient to meet the state's burden of establishing
 121 probable cause to believe that a nexus exists between the
 122 article seized and the narcotics activity, whether or not the
 123 use of the contraband article can be traced to a specific
 124 narcotics transaction.
 125 2. Any gambling paraphernalia, lottery tickets, money,
 126 currency, or other means of exchange which was used, was
 127 attempted, or intended to be used in violation of the gambling
 128 laws of the state.
 129 3. Any equipment, liquid or solid, which was being used,
 130 is being used, was attempted to be used, or intended to be used
 131 in violation of the beverage or tobacco laws of the state.
 132 4. Any motor fuel upon which the motor fuel tax has not
 133 been paid as required by law.
 134 5. Any personal property, including, but not limited to,
 135 any vessel, aircraft, item, object, tool, substance, device,
 136 weapon, machine, vehicle of any kind, money, securities, books,
 137 records, research, negotiable instruments, or currency, which
 138 was used or was attempted to be used as an instrumentality in
 139 the commission of, or in aiding or abetting in the commission
 140 of, any felony, whether or not comprising an element of the

141 felony, or which is acquired by proceeds obtained as a result of
 142 a violation of the Florida Contraband Forfeiture Act.

143 6. Any real property, including any right, title,
 144 leasehold, or other interest in the whole of any lot or tract of
 145 land, which was used, is being used, or was attempted to be used
 146 as an instrumentality in the commission of, or in aiding or
 147 abetting in the commission of, any felony, or which is acquired
 148 by proceeds obtained as a result of a violation of the Florida
 149 Contraband Forfeiture Act.

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

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

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

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

166 11. Any real property, including any right, title,
 167 leasehold, or other interest in the whole of any lot or tract of
 168 land, which is acquired by proceeds obtained as a result of

HB 63

2011

169 Medicaid fraud under s. 409.920 or s. 409.9201; any personal
170 property, including, but not limited to, equipment, money,
171 securities, books, records, research, negotiable instruments, or
172 currency; or any vessel, aircraft, item, object, tool,
173 substance, device, weapon, machine, or vehicle of any kind in
174 the possession of or belonging to any person which is acquired
175 by proceeds obtained as a result of Medicaid fraud under s.
176 409.920 or s. 409.9201.

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

184 Section 5. This act does not affect or impede the
185 provisions of s. 790.251, Florida Statutes, or any other
186 protection or right guaranteed by the Second Amendment to the
187 United States Constitution.

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