

By the Committee on Criminal Justice; and Senator Bean

591-03138-15

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1 A bill to be entitled
2 An act relating to contraband forfeiture; amending s.
3 932.701, F.S.; conforming a cross-reference to changes
4 made by the act; amending s. 932.704, F.S.; requiring
5 each state or local law enforcement agency that seizes
6 property for the purpose of forfeiture to perform a
7 specified periodic review at least annually;
8 prohibiting certain compensation or benefit to any law
9 enforcement officer from being dependent upon
10 attaining a quota of seizures; requiring a seizing
11 agency to have certain written policies, procedures,
12 and training to comply with specified legal
13 requirements; requiring the probable cause for seizure
14 to be promptly reviewed by supervisory personnel;
15 requiring the seizing agency's legal counsel to be
16 timely notified and conduct a specified review;
17 requiring each seizing agency to have specified
18 written policies and procedures for the prompt release
19 of seized property under certain circumstances;
20 requiring that settlement of any forfeiture actions be
21 consistent with certain mandates and with the seizing
22 agency's policy or directives; requiring specified
23 training and maintenance of records for such training;
24 creating s. 932.7061, F.S.; requiring each state or
25 local law enforcement agency that seizes property for
26 the purpose of forfeiture to complete an annual
27 report; requiring certain information to be included
28 in the annual report; requiring the report to be kept
29 on file with the seizing agency for public access;

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30 amending ss. 322.34, 323.001, 328.07, and 817.625,
31 F.S.; conforming cross-references; reenacting ss.
32 27.3451 and 874.08, F.S., relating to the State
33 Attorney's Forfeiture and Investigative Support Trust
34 Fund, and criminal gang activity, recruitment, and
35 forfeiture, respectively, to incorporate the amendment
36 made to s. 932.704, F.S., in references thereto;
37 providing an effective date.
38

39 Be It Enacted by the Legislature of the State of Florida:
40

41 Section 1. Subsection (1) of section 932.701, Florida
42 Statutes, is amended to read:

43 932.701 Short title; definitions.—

44 (1) Sections 932.701-932.7061 ~~932.706~~ shall be known and
45 may be cited as the "Florida Contraband Forfeiture Act."

46 Section 2. Subsection (11) of section 932.704, Florida
47 Statutes, is amended to read:

48 932.704 Forfeiture proceedings.—

49 (11) (a) The Department of Law Enforcement, in consultation
50 with the Florida Sheriffs Association and the Florida Police
51 Chiefs Association, shall develop guidelines and training
52 procedures to be used by state and local law enforcement
53 agencies and state attorneys in implementing the Florida
54 Contraband Forfeiture Act. Each state or local law enforcement
55 agency that seizes property for the purpose of forfeiture shall
56 periodically review seizures of assets made by the agency's law
57 enforcement officers, settlements, and forfeiture proceedings
58 initiated by the agency, to determine whether such seizures,

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59 settlements, and forfeitures comply with the Florida Contraband
60 Forfeiture Act and the guidelines adopted under this subsection.
61 Such review must occur at least annually. If the review suggests
62 deficiencies, the state or local law enforcement agency shall
63 promptly move to ensure the agency's compliance with this act.

64 (b) The determination of whether an agency will file a
65 civil forfeiture action must be the sole responsibility of the
66 head of the agency or his or her designee.

67 (c) ~~(b)~~ The determination of whether to seize currency must
68 be made by supervisory personnel. The agency's legal counsel
69 must be notified as soon as possible.

70 (d) The employment, salary, promotion, or other
71 compensation of any law enforcement officer may not depend on
72 obtaining a quota of seizures.

73 (e) A seizing agency must ensure, through the use of
74 written policies, procedures, and training, compliance with all
75 applicable legal requirements regarding seizing, maintaining,
76 and forfeiting property under this act.

77 (f) When property is seized for forfeiture, the probable
78 cause supporting the seizure must be promptly reviewed by
79 supervisory personnel. The seizing agency's legal counsel must
80 be notified as soon as possible of all seizures and conduct a
81 review to determine whether there is legal sufficiency to
82 proceed with a forfeiture action.

83 (g) Each seizing agency must have written policies and
84 procedures promoting, when there is no other legitimate basis
85 for holding seized property, the prompt release of such property
86 as may be required by the act or by agency determination. To
87 help assure that property is not wrongfully held after seizure,

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88 every law enforcement agency must have written policies and
89 procedures ensuring that all asserted claims of interest in
90 seized property are promptly reviewed for potential validity.

91 (h) The settlement of any forfeiture action must be
92 consistent with the mandates of this act and in compliance with
93 agency policy or directives.

94 (i) Law enforcement agency personnel involved in the
95 seizure of property for forfeiture shall receive basic training
96 and continuing education as required by this act. Each agency
97 shall maintain records demonstrating every law enforcement
98 officer's compliance with these training requirements. A portion
99 of such training must address the legal aspects of forfeiture,
100 including, but not limited to, search and seizure and other
101 constitutional considerations.

102 Section 3. Section 932.7061, Florida Statutes, is created
103 to read:

104 932.7061 Each state or local law enforcement agency that
105 seizes property for the purpose of forfeiture must complete an
106 annual report indicating whether that agency has received or
107 forfeited property under this act. The report, to be submitted
108 on a form designed by the law enforcement agency, must, at a
109 minimum, specify the type of property, its approximate value,
110 the court case number, the type of offense for which the
111 property was seized, disposition of the property, and the dollar
112 amount of the proceeds received or expended in seizing the
113 property. This report must be kept on file with the seizing
114 agency for public access.

115 Section 4. Paragraph (a) of subsection (9) of section
116 322.34, Florida Statutes, is amended to read:

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117 322.34 Driving while license suspended, revoked, canceled,
118 or disqualified.—

119 (9) (a) A motor vehicle that is driven by a person under the
120 influence of alcohol or drugs in violation of s. 316.193 is
121 subject to seizure and forfeiture under ss. 932.701-932.7061
122 ~~932.706~~ and is subject to liens for recovering, towing, or
123 storing vehicles under s. 713.78 if, at the time of the offense,
124 the person's driver license is suspended, revoked, or canceled
125 as a result of a prior conviction for driving under the
126 influence.

127 Section 5. Subsection (4) of section 323.001, Florida
128 Statutes, is amended to read:

129 323.001 Wrecker operator storage facilities; vehicle
130 holds.—

131 (4) The requirements for a written hold apply when the
132 following conditions are present:

133 (a) The officer has probable cause to believe the vehicle
134 should be seized and forfeited under the Florida Contraband
135 Forfeiture Act, ss. 932.701-932.7061 ~~932.706~~;

136 (b) The officer has probable cause to believe the vehicle
137 should be seized and forfeited under chapter 379;

138 (c) The officer has probable cause to believe the vehicle
139 was used as the means of committing a crime;

140 (d) The officer has probable cause to believe that the
141 vehicle is itself evidence that tends to show that a crime has
142 been committed or that the vehicle contains evidence, which
143 cannot readily be removed, which tends to show that a crime has
144 been committed;

145 (e) The officer has probable cause to believe the vehicle

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146 was involved in a traffic accident resulting in death or
147 personal injury and should be sealed for investigation and
148 collection of evidence by a vehicular homicide investigator;

149 (f) The vehicle is impounded or immobilized pursuant to s.
150 316.193 or s. 322.34; or

151 (g) The officer is complying with a court order.

152 Section 6. Paragraph (b) of subsection (3) of section
153 328.07, Florida Statutes, is amended to read:

154 328.07 Hull identification number required.-

155 (3)

156 (b) If any of the hull identification numbers required by
157 the United States Coast Guard for a vessel manufactured after
158 October 31, 1972, do not exist or have been altered, removed,
159 destroyed, covered, or defaced or the real identity of the
160 vessel cannot be determined, the vessel may be seized as
161 contraband property by a law enforcement agency or the division,
162 and shall be subject to forfeiture pursuant to ss. 932.701-
163 932.7061 ~~932.706~~. Such vessel may not be sold or operated on the
164 waters of the state unless the division receives a request from
165 a law enforcement agency providing adequate documentation or is
166 directed by written order of a court of competent jurisdiction
167 to issue to the vessel a replacement hull identification number
168 which shall thereafter be used for identification purposes. No
169 vessel shall be forfeited under the Florida Contraband
170 Forfeiture Act when the owner unknowingly, inadvertently, or
171 neglectfully altered, removed, destroyed, covered, or defaced
172 the vessel hull identification number.

173 Section 7. Paragraph (c) of subsection (2) of section
174 817.625, Florida Statutes, is amended to read:

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175 817.625 Use of scanning device or reencoder to defraud;
176 penalties.—

177 (2)

178 (c) Any person who violates subparagraph (a)1. or
179 subparagraph (a)2. shall also be subject to the provisions of
180 ss. ~~932.701-932.7061~~ 932.706.

181 Section 8. For the purpose of incorporating the amendment
182 made by this act to section 932.704, Florida Statutes, in a
183 reference thereto, section 27.3451, Florida Statutes, is
184 reenacted to read:

185 27.3451 State Attorney's Forfeiture and Investigative
186 Support Trust Fund.—There is created for each of the several
187 state attorneys a trust fund to be known as the State Attorney's
188 Forfeiture and Investigative Support Trust Fund. Revenues
189 received by a state attorney as a result of forfeiture
190 proceedings, as provided under s. 932.704, shall be deposited in
191 such trust fund and shall be used, when authorized by
192 appropriation or action of the Executive Office of the Governor
193 pursuant to s. 216.181(11), for the investigation of crime,
194 prosecution of criminals, or other law enforcement purposes.

195 Section 9. For the purpose of incorporating the amendment
196 made by this act to section 932.704, Florida Statutes, in a
197 reference thereto, section 874.08, Florida Statutes, is
198 reenacted to read:

199 874.08 Criminal gang activity and recruitment; forfeiture.—
200 All profits, proceeds, and instrumentalities of criminal gang
201 activity and all property used or intended or attempted to be
202 used to facilitate the criminal activity of any criminal gang or
203 of any criminal gang member; and all profits, proceeds, and

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204 instrumentalities of criminal gang recruitment and all property
205 used or intended or attempted to be used to facilitate criminal
206 gang recruitment are subject to seizure and forfeiture under the
207 Florida Contraband Forfeiture Act, s. 932.704.

208 Section 10. This act shall take effect July 1, 2015.