

By Senator Brandes

22-00490A-16

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1                   A bill to be entitled  
2       An act relating to forfeiture of contraband; amending  
3       s. 932.703, F.S.; providing for the acquisition of the  
4       provisional title of seized property under certain  
5       circumstances; prohibiting a forfeiture under the  
6       Florida Contraband Forfeiture Act from being final  
7       until the owner of the seized property is prosecuted  
8       and convicted of a criminal act that renders the  
9       property a contraband article; providing that the  
10      property is deemed a contraband article and forfeited  
11      subject to forfeiture proceedings under certain  
12      circumstances; specifying circumstances under which  
13      the seizing law enforcement agency must return the  
14      property to the owner; deleting a provision vesting  
15      rights, interests, and title to contraband articles in  
16      the seizing law enforcement agency; amending s.  
17      322.34, F.S.; conforming a provision to changes made  
18      by the act; reenacting s. 403.413(6)(e), F.S.,  
19      relating to forfeiture under the Florida Litter Law,  
20      to incorporate the amendment made to s. 932.703, F.S.,  
21      in a reference thereto; providing an effective date.

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

24  
25       Section 1. Subsection (1) of section 932.703, Florida  
26 Statutes, is amended to read:

27       932.703 Forfeiture of contraband article; exceptions.—  
28       (1) (a) Any contraband article, vessel, motor vehicle,  
29       aircraft, other personal property, or real property used in

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30 violation of ~~any provision of~~ the Florida Contraband Forfeiture  
31 Act, or in, upon, or by means of which any violation of the  
32 Florida Contraband Forfeiture Act has taken or is taking place,  
33 may be seized and shall be forfeited subject to ~~the provisions~~  
34 ~~of~~ the Florida Contraband Forfeiture Act.

35 (b) Notwithstanding any other provision of the Florida  
36 Contraband Forfeiture Act, except ~~the provisions of~~ paragraph  
37 (a), contraband articles set forth in s. 932.701(2)(a)7. used in  
38 violation of ~~any provision of~~ the Florida Contraband Forfeiture  
39 Act, or in, upon, or by means of which any violation of the  
40 Florida Contraband Forfeiture Act has taken or is taking place,  
41 shall be seized and shall be forfeited subject to ~~the provisions~~  
42 ~~of~~ the Florida Contraband Forfeiture Act.

43 (c) At the time of seizure or entry of a restraining order,  
44 the state acquires provisional title to the seized property. A  
45 forfeiture under the Florida Contraband Forfeiture Act is not  
46 final, and title or other indicia of ownership, other than  
47 provisional title, do not pass to the state or jurisdiction  
48 seeking forfeiture until the owner of the seized property is  
49 prosecuted and convicted of a criminal act that renders the  
50 property a contraband article. If, after 3 months, the seizing  
51 agency cannot find the owner of the seized property after a  
52 diligent effort, the seized property is deemed a contraband  
53 article and forfeited subject to s. 932.704. However, if the  
54 seizing agency finds the owner, the seizing agency shall return  
55 the property to the owner within 5 days after:

56 1. The court finding that the owner had a bona fide  
57 security interest;

58 2. The court finding that the owner was an innocent owner;

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59       3. The acquittal or dismissal of the owner of the criminal  
60 charge that was the basis of the forfeiture proceedings; or

61       4. The disposal of the criminal charge that was the basis  
62 of the forfeiture proceedings by nolle prosequi. The seizing  
63 agency is responsible for any damage, storage fee, and related  
64 cost applicable to the property ~~All rights to, interest in, and~~  
65 ~~title to contraband articles used in violation of s. 932.702~~  
66 ~~shall immediately vest in the seizing law enforcement agency~~  
67 ~~upon seizure.~~

68       (d) The seizing agency may not use the seized property for  
69 any purpose until the rights to, interest in, and title to the  
70 seized property are perfected in accordance with the Florida  
71 Contraband Forfeiture Act. This section does not prohibit use or  
72 operation necessary for reasonable maintenance of seized  
73 property. Reasonable efforts shall be made to maintain seized  
74 property in such a manner as to minimize loss of value.

75       Section 2. Paragraph (c) of subsection (9) of section  
76 322.34, Florida Statutes, is amended to read:

77       322.34 Driving while license suspended, revoked, canceled,  
78 or disqualified.—

79       (9)

80       (c) Notwithstanding ~~s. 932.703(1)(c) or~~ s. 932.7055, when  
81 the seizing agency obtains a final judgment granting forfeiture  
82 of the motor vehicle under this section, 30 percent of the net  
83 proceeds from the sale of the motor vehicle shall be retained by  
84 the seizing law enforcement agency and 70 percent shall be  
85 deposited in the General Revenue Fund for use by regional  
86 workforce boards in providing transportation services for  
87 participants of the welfare transition program. In a forfeiture

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88 proceeding under this section, the court may consider the extent  
89 that the family of the owner has other public or private means  
90 of transportation.

91 Section 3. For the purpose of incorporating the amendment  
92 made by this act to section 932.703, Florida Statutes, in a  
93 reference thereto, paragraph (e) of subsection (6) of section  
94 403.413, Florida Statutes, is reenacted to read:

95 403.413 Florida Litter Law.—

96 (6) PENALTIES; ENFORCEMENT.—

97 (e) A motor vehicle, vessel, aircraft, container, crane,  
98 winch, or machine used to dump litter that exceeds 500 pounds in  
99 weight or 100 cubic feet in volume is declared contraband and is  
100 subject to forfeiture in the same manner as provided in ss.  
101 932.703 and 932.704.

102 Section 4. This act shall take effect July 1, 2016.